

The seal of the State of California is centered in the background. It features a grizzly bear holding a bow and arrow, with a miner in the foreground. The text "SEAL OF THE STATE OF CALIFORNIA" is visible around the perimeter, and "EUREKA" is at the top.

**ANNUAL REPORT**

**to the  
LEGISLATURE**

**1982**

**PUBLIC EMPLOYMENT  
RELATIONS BOARD**

SEVENTH ANNUAL REPORT  
OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD

1982

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Members of the Board<sup>1</sup>

Harry Gluck, Board Chairman

Nancy Burt

John Jaeger

Marty Morgenstern

Irene Tovar

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Office of the General Counsel

Dennis Sullivan, General Counsel

Jeffrey Sloan, Assistant General Counsel  
Janet Caraway, Director of Representation  
Fred D'Orazio, Chief Administrative Law Judge

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Chuck Cole, Executive Director

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<sup>1</sup>Barbara Moore served through May 3, 1982, and  
Virgil Jensen served through December 31, 1982.

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## BOARD OPERATIONS

The Board is a quasi-judicial agency responsible for administering three laws: the Educational Employment Relations Act (EERA, in effect since April 1976), the State Employer-Employee Relations Act (SEERA, in effect since July 1978), and the Higher Education Employer-Employee Relations Act (HEERA, in effect since July 1979). The three collective negotiations laws cover approximately 730,000 public employees employed by California public schools (pre-kindergarten - community colleges), the State of California, the University of California and the California State University.

In administering these laws, the Board has two principal functions: (1) to prevent and remedy unlawful acts (unfair practices) of employers and unions, and (2) to determine and implement, through secret-ballot elections, the free, democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers.

The Board is composed of five members, appointed by the Governor and subject to confirmation by the Senate. During calendar year 1982, Harry Gluck served as Chairperson. Members during this period were John Jaeger, Virgil Jensen, Barbara Moore, Marty Morgenstern, and Irene Tovar. Dennis Sullivan was General Counsel, and Chuck Cole served as Executive Director.

The agency has 108 authorized positions assigned to headquarters in Sacramento and regional offices in Los Angeles and San Francisco.

During the reporting period, the Board reviewed its regulations and promulgated new and amended sections in the California Administrative Code. In January of 1982 and throughout the spring, the Board held formal hearings to draft proposed language to amend, repeal or adopt the regulations where necessary to bring them into compliance with Assembly Bill 1111 of 1979. Following the hearings, the Board adopted the changes. These were reviewed by the Office of Administrative Law and the majority of them became effective in September 1982.

During the reporting period, PERB's budget for 1982-83 was cut by 6.3 percent, resulting in reduced allocations for factfinding, travel expenses, equipment and supplies and some vacant positions were deleted. Further, PERB was informed that the Department of Finance would not approve requests for additional funding or additional positions except through the reallocation of existing budgetary resources.

As a consequence, and in the face of a growing workload for administrative law judges, regional attorneys and the litigation section of the General Counsel's office, the Board placed all legal functions of the agency under direction of the General Counsel. This reorganization improved case processing procedures and, combined with major regulation changes,

contributed to substantial overall streamlining of case processing at the staff level.

Supplementary language of the 1981-82 Budget Act required the Board to establish a management information system designed to expedite case processing in the agency. PERB instituted new procedures designed to reach three agency-wide objectives within a reasonable period of time: (1) dispose of aged cases; (2) reduce the period of time between original filing and final agency actions; and (3) balance case intake with output.

Consistent with its March 5, 1982 commitment to the Legislature to eliminate its backlog of unfair practice appeals by year's end, the Board had issued all but two of its pre-1981 appellate backlog and all but fifteen of its 1981 appellate cases.

#### PERB PROCEDURES

##### Representation

In accordance with the provisions of the statutes, the Board is empowered to determine appropriate units for negotiating purposes.

This process begins when a petition is filed by an employee organization. If there is only one employee organization and

the parties agree on the unit description, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for the same unit, an election is mandatory. 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 Acts to resolve disputes by mutual agreement, provided such agreement is not inconsistent with the purpose and policies of the Acts.

If the parties dispute the appropriateness of a unit or the employee status of individuals within the unit, a Board agent convenes a settlement conference to assist the parties in resolving the dispute. The disputed unit modification cases are being handled in the same manner as unit disputes.

If a unit dispute is resolved, the employer may grant voluntary recognition if there is only one employee organization and the organization has evidenced majority support. If the employer declines to grant voluntary recognition, an election is held.

The Board is also involved, under both EERA and HEERA, when one or both parties wish to change established units. These changes are made in accordance with the Board's new unit modification regulations.

In disputed cases, a Board agent will convene a settlement conference to assist the parties in resolving their disagreement. If the parties do not resolve their dispute, the Board agent will conduct an investigation or, if necessary, a hearing to develop a factual basis for resolving the case in light of Board precedent.

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 is dismissed if 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 is also dismissed if filed when there is a negotiated agreement in effect, unless it is filed during a window period beginning approximately 120 days prior to the expiration of that agreement.

### Elections

One of PERB's major functions is to conduct representation elections. The Board agent or the representative of a party to the election may challenge the voting eligibility of any person who casts a ballot, and parties to the election may file objections to the conduct of the election. Challenged ballots and objections are resolved through procedures detailed in PERB regulations.

A second type of election occurs to approve (under the EERA) or rescind (under the EERA or SEERA) an organizational security agreement. Organizational security election procedures are similar to those followed in representation elections.

### Impasse

The agency assists the parties in reaching negotiated agreements through mediation, and 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 in regard to the existence of an impasse, a Board agent seeks information that would help the Board determine if mediation would be helpful and productive at that time.

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 very successful.

If settlement is not reached during mediation, either party (under EERA or HEERA) may request that factfinding procedures be implemented. If the mediator agrees that factfinding is

appropriate, PERB provides a list of neutral factfinders from which the parties select an individual to chair the tripartite panel. 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 after the factfinding process.

### Unfair Practice

An employer, employee organization, or employee may file a charge alleging that an employer or employee organization has committed an unfair practice. The charge and the underlying evidence is evaluated by a Board agent to determine whether a prima facie case of unfair practice has been established.

If the Board agent determines that the charge or evidence 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 dismissal to the Board.

If the Board agent determines that a charge states a prima facie case, a complaint is issued, and the respondent is given

an opportunity to file an answer to the complaint. An administrative law judge (ALJ) then calls the parties together for an informal conference where 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 because the primary purpose is to achieve a voluntary settlement. If settlement does not occur, either party may request a formal hearing.

The ALJ assigned to hear the case rules on motions, takes sworn testimony and other evidence. The ALJ then studies the record, considers the applicable law and issues a proposed decision which includes findings of fact, determinations of credibility and conclusions of law.

Proposed ALJ decisions apply precedential Board decisions to the facts involved in a given case. In the absence of a Board decision on the same or similar facts, the ALJ will decide the issue(s) by applying other relevant legal principles.

After receiving a proposed decision, any party to the proceedings may file a Statement of Exceptions and a supporting brief with the Board. After evaluating the exceptions, the Board may affirm the decision, modify it in whole or in part, reverse it, or send the matter back to the ALJ for the receipt of additional testimony and evidence. Proposed ALJ decisions that are not appealed are binding on the parties to the case.

An important distinction exists between ALJ proposed decisions and decisions of the Board itself. ALJ decisions may not be cited as precedent in other cases before the Board. Decisions of the Board itself are made after deliberation by the Board members on cases that have been appealed on an ALJ's decision. Board decisions are precedential and not only bind the parties to that particular case, but also serve as precedent for similar issues arising in subsequent cases.

### Public Notice

The Acts provide that the public be informed about the issues to be negotiated and that it also be afforded the opportunity to express its views on the issues before negotiations.

PERB regulations provide the public with a mechanism to allege a violation of these sections of the EERA and HEERA. A Board agent is assigned to evaluate 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 highly successful with this approach.

### Litigation

The Board is represented in litigation by its General Counsel. The General Counsel's litigation responsibilities include:

- . defending formal Board unfair practice decisions when aggrieved parties seek review in the Court of Appeal;

- seeking judicial relief when a party refuses to comply with a final Board decision or with a subpoena issued by PERB;
- seeking injunctive relief from the Superior Court when necessary to halt actions or restore the status quo pending a determination on the merits of unfair practice charges;
- defending the Board against attempts to block its processes, such as attempts to enjoin PERB hearings or elections;
- defending a formal Board unit determination decision when the Board, in response to a petition from a party, agrees that the case is one of special importance, and joins in a request for immediate appellate review;
- submitting amicus curiae briefs in cases in which the Board has a special interest, or in cases affecting the Board's jurisdiction.

### Financial Statement

PERB regulations require that exclusive representatives file an annual financial statement with the agency no later than 60 days following the close of the organization's fiscal year. Any employee may file a statement alleging noncompliance with this regulatory requirement. Upon receipt of such a filing, PERB agents investigate the allegation in order to determine the accuracy of the allegation. If appropriate, the agency seeks compliance with the regulation.

### OPERATIONAL HIGHLIGHTS

#### 1. Unfair Practice Cases

A total of 658 charges (481 under the EERA, 74 under the HEERA, and 103 under the SEERA) were filed. Five hundred eighty-two (582) were charges against employers (CE) and 76

were charges against employee organizations (CO).

Regional staff, acting on behalf of the Board under the direction of the General Counsel, issued 418 complaints under all Acts and either settled, dismissed or permitted the withdrawal of 551 total charges.

Administrative law judges issued 86 decisions, conducted 318 informal settlement conferences and held 107 hearings. Forty-six (46) of the decisions issued were appealed to the Board and 40 became final.

## 2. Representation Cases

### EERA

Sixty-one (61) requests/interventions for recognition and 119 petitions for unit modifications were received and processed. There were five proposed decisions issued which dealt with representation issues.

### SEERA

The representation caseload for SEERA consisted of two cases. The major representation workload related to the elections of exclusive representatives the year before.

### HEERA

The HEERA representation workload took on new dimensions with the filing of 61 cases. The majority of these cases

were related to the unit determination process for the University of California.

### 3. Elections

#### EERA

PERB conducted 57 elections covering approximately 10,828 employees. A listing of the elections conducted in 1982 is found in the appendices, page A-6.

PERB conducted 14 elections to determine which employee organization, if any, would represent the employees of a particular negotiating unit. Of these, 12 elections resulted in the selection of an exclusive representative and 2 in the selection of no representation.

In addition, the Board conducted 32 decertification elections. Of these, 17 resulted in the retention of the incumbent organization, 3 resulted in the selection of no representation, 11 resulted in the selection of another employee organization as the exclusive representative, and 1 remains unresolved.

As provided by statute, 10 public school employers requested the Board to conduct organizational security elections. Nine (9) of these resulted in ratification of the organizational security provisions, and one (1) resulted in rejection of the organizational security provision.

#### SEERA

PERB certified the results of the election in the Attorney and Hearing Officer unit.

#### HEERA

Twelve elections were conducted in the California State University system covering approximately 53,529 employees to determine which organization, if any, would represent the employees of a particular negotiating unit. Of these, eight resulted in the selection of an exclusive representative.

#### 4. Impasse Cases

##### EERA

PERB received a total of 342 mediation requests; 49 (13 percent) of these proceeded to factfinding.

##### SEERA

PERB received a total of 12 mediation requests. SEERA does not provide for factfinding.

##### HEERA

PERB received a total of three mediation requests. Two (2) proceeded to factfinding.

#### 5. Compliance Cases

A compliance case arises when a party is ordered by PERB to take some remedial action. After issuance of a final decision and Order, the appropriate Regional Director is responsible for ensuring that the Order is implemented. There were 58 compliance cases in 1982.

#### 6. Decisions Issued

The Board itself issued 139 decisions in 1982, the highest number of decisions issued for a single year since the Board's

inception. Of these, 72 were final adjudications in 81 unfair practice cases. Of these 72 decisions, 33 percent were resolved in favor of employers, 44 percent were resolved in favor of employee organizations, and 2 percent were resolved in favor of an individual who filed a charge against an employee organization. The remaining 21 percent involved multiple issues, some of which were resolved in favor of each party. Additionally, 13 were representation decisions, 21 were injunctive relief decisions, 21 were administrative appeal decisions, 11 were requests for reconsideration and one related to a request for judicial review.

#### LEGISLATIVE ENACTMENTS

There were no amendments to EERA or HEERA; however, the Legislature made the following amendments to SEERA:

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SB 1419 (Dills)	Chapter 1572	Effective date: January 1, 1983
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Permits the state employer and a recognized employee organization to enter into an agreement providing for organizational security in the form of fair share fees. The bill requires the state employer to deduct the amount specified by the recognized employee organization from the salary or wages.

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AB 3055 Chapter 1081 Effective date: January 1, 1983  
(Berman)

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Specifies that employees of the Department of Personnel Administration are not state employees for the purposes of SEERA. The bill requires a bona fide association to be registered with the state employer in order for state officers and employees to authorize deductions for dues. The state employer is required to adopt reasonable rules for registering bona fide associations.

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AB 3313 Chapter 1270 Effective date: January 1, 1983  
(Berman)

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Limits authorized deductions to state employees who receive wages administered by the Controller. This bill also requires the State Civil Service employer and the Trustees of the California State University to adopt reasonable rules and regulations for registering employee organizations and bona fide associations.

## REPRESENTATION CASES

### Unit Determination

#### EERA

Redlands Unified School District (8/27/82) PERB Decision No. 235

The Board found that District's teachers were not supervisors of instructional aides, for the authority teachers exercised over aides was not "in the interest of the employer."

#### HEERA

1. Unit Determination for Technical Employees of the University of California (9/30/82) PERB Decision No. 241-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating units within the University of California employee classifications:

Lawrence Livermore National Laboratory Technical  
Patient Care Technical  
Systemwide Technical

2. Unit Determination for Skilled Crafts Employees of the University of California (9/30/82) PERB Decision No. 242-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating units within the University of California employee classifications:

Skilled Crafts, Lawrence Livermore National  
Laboratory  
Skilled Crafts, U.C. San Francisco  
Skilled Crafts, U.C. Berkeley/Lawrence Berkeley  
Laboratory  
Skilled Crafts, UCLA

3. Unit Determination for Printing Trades Employees of the University of California (9/30/82) PERB Decision No. 243-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating units within the University of California employee classifications:

Printing Trades

4. Unit Determination for Clerical Employees of the University of California (9/30/82) PERB Decision No. 244-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following unit was an appropriate negotiating unit within the University of California employee classifications:

Clerical and Allied Services

5. Unit Determination for Service Employees of the University of California (9/30/82) PERB Decision No. 245-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating unit within the University of California employee classifications:

Service Employees, University of California and  
Service Employees, Lawrence Livermore National  
Laboratory

6. Unit Determination for Professional Scientists and Engineers, Lawrence Livermore National Laboratory, of the University of California (9/30/82) PERB Decision No. 246-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating units within the University of California employee classifications:

Professional Scientists & Engineers, Lawrence  
Livermore National Laboratory

7. Unit Determination for Professional Librarians of the University of California (9/30/82) PERB Decision No. 247-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating units within the University of California employee classifications:

Professional Librarians

8. Unit Determination for Professional Patient Care Employees of the University of California (9/30/82) PERB Decision No. 248-H

Pursuant to evidentiary hearings and written briefs, the Board determined in this decision that the following units were appropriate negotiating units within the University of California employee classifications:

Registered Nurses  
Residual Patient Care Professional

9. Unit Determination for Professional Non-Academic Senate Instructional and Research Employees of the University of California (12/28/82) PERB Decision No. 270-H

In a unit determination decision resulting from the hearing on U.C. non-academic senate professionals, the Board established an instructional unit. The unit includes lecturer and teacher classifications, but it excludes clinical professors, adjunct professors, and University Extension teachers.

The Board also established a unit composed of research classifications. This unit includes Lawrence Livermore Berkeley lab scientists, agricultural extension agents, cooperative extension agents and general research classifications which participate in the University's organized research unit.

As no employee organization had petitioned for such a unit, the Board did not address the appropriateness of an administrative or staff unit.

## PUBLIC NOTICE CASES

### EERA

Joseph A. Spencer v. Sacramento City Unified School District (4/9/82) PERB Decision No. 205

The public notice section of the EERA does not require that the employee organization's counterproposals be publicly noticed prior to the commencement of negotiations.

## ADMINISTRATIVE APPEALS

### EERA

This year, there were eight appeals. Key cases are summarized here:

Charter Oak Education Association v. Charter Oak Unified School District (2/25/82) PERB Decision No. Ad-125

Appellant asserted that the hearing officer should not have issued a complaint in this case but rather should have deferred the case to arbitration. The Board held that because the District failed to demonstrate that deferral was appropriate, the unfair practice case must be heard on its merits.

United Professors of Marin, AFT Local 1610, AFL-CIO v. Marin County College District (4/21/82) PERB Decision No. Ad-126

The Board denied the appeal of the United Professors from the determination of impasse. Citing the difficulty in making a subjective determination of "good faith" in such situations, the Board determined that a regional office investigation regarding the number of subjects covered in negotiations was sufficient to show a mediator might help the negotiations to proceed.

California Teachers Association; and Poway Federation of Teachers, Local 2357, AFT/AFL-CIO; and Poway Unified School District (4/30/82) PERB Decision No. Ad-127

The local CTA chapter and the local AFT chapter (AFT was the exclusive representative) proposed the formation of a coalition. The state level CTA was

unaware of the action and appealed to the Board requesting it be allowed to present argument against the proposed recertification of the coalition as the exclusive representative.

The Board granted CTA's petition to participate and, in turning to the merits, found that the pre-election materials circulated to the voters did not coincide in expression with the net results of the coalition. The Board also found that it had no authority to compel the affiliation of a local group to a state or national organization by way of the certification process. Accordingly, the coalition was not certified.

### UNFAIR PRACTICE CASES

#### EERA

#### A. Refusal to Negotiate or Utilize Statutory Impasse Proceeding

1. San Dieguito Faculty Association v. San Dieguito Union High School District (2/25/82) PERB Decision No. 194

The Board affirmed a hearing officer's dismissal of a charge alleging that the school district unlawfully reduced teacher preparation time. The charge was dismissed because the organization did not file the charge within the statutory limitation period, and there were no grounds supporting application of the doctrine of equitable tolling.

2. Grant District Education Association, CTA/NEA v. Grant Joint Union High School District (2/26/82) PERB Decision No. 196

The Board held that it has jurisdiction to interpret collective bargaining agreements when such interpretation is necessary to resolve an unfair practice charge. A breach of contract, however, will only violate EERA when it constitutes a change in policy. The Board defined policy change as one which has a generalizing effect or continuing impact on terms and conditions of employment.

3. Anaheim Secondary Teachers Association, CTA/NEA v. Anaheim Union High School District (3/26/82) PERB Decision No. 201

Claim of inability to pay does not excuse the District from its obligation to negotiate wages. The Board

held that the District violated the EERA on its unilateral decision to reduce wages and benefits. The Board also held that the organization did not waive its right to negotiate by agreeing to defer negotiations pending receipt of pertinent information.

4. Moreno Valley Educators Association v. Moreno Valley Unified School District (4/30/82) PERB Decision No. 206

The Board held that the District violated the EERA by implementing its last best offer on various matters within the scope of representation prior to the exhaustion of impasse procedures including mediation and factfinding.

5. Southwest Teachers Association v. South Bay Union School District Board of Trustees (4/30/82) PERB Decision No. 207

The District unilaterally eliminated five lead teacher positions and, as to those lead teachers rehired, reduced their salary by eliminating the twelve additional workday assignment. The Board held that because the District was obligated to negotiate on the impact of its decision affecting lead teachers, the District must reimburse the five lead teachers the 5 percent pay differential and pro rata pay for additional workdays.

6. Southwest Teachers Association v. South Bay Union School District Board of Trustees (4/30/82) PERB Decision No. 207a

The Board granted the District's request that it reconsider its decision in South Bay Union School District (4/30/82) PERB Decision No. 207 and modified the back pay portion of its Order in that case. In the revised Order, the District was ordered to bargain with the exclusive representative over the effects of the decision altering the work assignment of lead teachers and to make appropriate payment until agreement is reached, impasse is declared, or the union fails to request to negotiate or to negotiate in good faith.

7. Rialto Education Association, CTA/NEA v. Rialto Unified School District (4/30/82) PERB Decision No. 209

The Board held that, because the transfer of work from one representation unit to another affects wages,

hours and working conditions and weakens the collective strength of employees in the unit and their ability to deal effectively with the employer, the District's unilateral decision to make the transfers violated its duty to negotiate with the employees.

8. Delano Union Elementary Teachers Association, CTA/NEA v. Delano Union Elementary School District (4/30/82) PERB Decision No. 213

The Board held that the reprimand of an employee, who was neither a manager nor supervisor, for addressing a union meeting violated the employee's statutory right to participate in organizational activities. The Board also held that District's unilateral change of wages and hours of resource teachers violated its duty to bargain in good faith.

9. Social Services Union, Local 535, SEIU, AFL-CIO v. Sacramento City Unified School District (4/30/82) PERB Decision No. 214

The Board ordered the impounded ballots destroyed and a new election conducted because while a question of representation was pending, the District met and negotiated with only one of the organizations competing for exclusivity. Statements by the District superintendent also contributed to interference with the employees' freedom of choice.

10. California School Employees Association v. Barstow Unified School District (6/11/82) PERB Decision No. 215

The Board held that the District violated EERA by unilaterally changing its leave policy. The fact that the District acted in response to the possibility of an impending employee slowdown did not justify the District's actions.

The Board also held that the District violated the Act by threatening to suspend the exclusive representative's organizational privileges if it encouraged employees to engage in an unprotected slowdown.

11. Service Employees International Union, Local 22, Sacramento Association of Classified Educational Employees v. Sacramento City Unified School District (6/28/82) PERB Decision No. 216

The District unilaterally altered its paid leave policy, a matter within scope, allegedly in response to a one-day sick-out. PERB rejected the "business-necessity" defense of the employer, finding that because the employer already had a leave verification policy in place, the school board's resolution, adopted the day after the sick-out, did nothing to reduce the threat of disruption.

12. California School Employees Association and its Solano College Chapter 211 v. Solano County Community College District (6/30/82) PERB Decision No. 219

The Board held that, by transferring work performed by the classified unit to the certificated unit without first negotiating the action, the District violated the Act. The Board also held that there was nothing in the relevant Education Code sections which justified the District's unilateral action.

13. El Monte Union High School District Education Association/CTA/NEA v. El Monte Union High School District (12/27/82) PERB Decision No. 220

El Monte UHSD PERB Decision No. 142 modified an existing unit of certificated employees to include certificated summer and hourly employees. In the instant case, the District engaged in a technical refusal to bargain to test PERB's unit decision.

The Board reaffirms its holding in El Monte. The Board has broad authority to define the appropriate bargaining unit. An election is unnecessary because PERB regulations did not require an election before a unit modification implementation. An election would destabilize the employer-employee relationship and would be contrary to the Act.

14. California School Employees Association, Newman-Crows Landing Chapter #551 v. Newman-Crows Landing Unified School District (6/30/82) PERB Decision No. 223

The Board held that the District's decision to lay off employees is not negotiable; a decision based on lack of funds or lack of available work is a managerial prerogative contemplated by the Board's test in Anaheim.

15. Newark Teachers Association, CTA/NEA v. Newark Unified School District (6/30/82) PERB Decision No. 225

The Board held that the District had an obligation, at the time layoffs were projected and a resolution authorizing layoffs pursuant to the Education Code was passed, to provide notice and an opportunity to negotiate with the exclusive representative of its certificated employees regarding the effects of the proposed layoff on matters within scope. The fact that the layoff was not ultimately implemented in a manner which actually had impact on matters within scope did not obviate the existence of the negotiating duty at the time of the resolution, a time when negotiations could do the most good.

16. San Diego Teachers Association, CTA/NEA v. San Diego Unified School District (8/25/82) PERB Decision No. 234

The Association alleged that the District violated the Act by unilaterally establishing a counseling program for "troubled employees". The Board found that, while the subject was related to health and welfare benefits, it is non-negotiable because it was central to the mission of the District in having sober, mentally sound and efficient employees and only minimally and indirectly affected conditions of employment.

17. Lois Seward, Kathaleen A. Glaski, Helen Guerin, Paul Hillslater, Claire Ingels, Pearl Lawson, Maribel Anderson, Jane Rothermel and Sherine Frazin v. Grant Joint Union High School District (9/29/82) PERB Decision No. 238

The union's charge was dismissed where it failed to state facts demonstrating that the employer refused to negotiate the issue of equal pay.

18. San Jose Community College District Chapter, CTA/NEA v. San Jose Community College District (9/30/82) PERB Decision No. 240

The Board found no violation of the statute when the District substituted 15 days of classroom instruction for 15 days of in-service training in its tentative school calendar. Because the adoption of the tentative calendar was only for the purpose of setting student attendance dates, the matter was not within scope, nor did it affect a matter within scope.

After the adoption of the tentative calendar, the District continued to negotiate with the Association on teacher calendar items such as beginning and ending dates, vacations, holidays and hours of employment.

19. Palm Springs Teachers Association v. Palm Springs Unified School District (9/30/82) PERB Decision No. 249

The Board held that unilateral increase of coaches' salaries violated the District's duty to negotiate in good faith, rejecting the argument that the change was de minimus.

20. Holtville Teachers Association v. Holtville Unified School District (9/30/82) PERB Decision No. 250

The Board held that the mandatory retirement policy is subject to negotiations since the Education Code permits an employer to retain employees who have reached the age of 70.

21. Los Angeles City and County School Employees Union, Local 99, Service Employees International Union, AFL-CIO v. Los Angeles Community College District (10/18/82) PERB Decision No. 252

The Board found that the District violated its duty to negotiate by unilaterally changing the shift of custodial employees. The Board also held that the union did not waive its right to negotiate about the shift change by a zipper clause or any other provision in its contract, or by its conduct during negotiations. The union did not waive its right to negotiate by inaction where it had no notice of the intended change before the decision had been firmly made and employee knowledge cannot be imputed to the union.

The Education Code provision requiring the District to make shift assignments on the basis of seniority does not prevent reinstatement of employees to restore the status quo as it existed before a violation of EERA.

Reinstatement of employees is not appropriate where the parties have subsequently negotiated and reached agreement regarding shift changes. Back pay computed on the basis of the lost shift differential is ordered from the date of the shift change until agreement was reached on the new contract, and the parties are ordered to "consult" pursuant to the requirements of their new contract.

22. San Bernardino Teachers Association, CTA/NEA v. San Bernardino City Unified School District (10/29/82) PERB Decision No. 255

The District unilaterally adopted a set of "Certificated Rules of Conduct" without first negotiating with the exclusive representative of the teachers. The Board found that all but two of the rules were codifications of existing policy. The remaining two rules were new and should have been negotiated. The Board said that rules of conduct which subject employees to discipline are negotiable as to both the criteria for discipline and the procedure to be followed.

23. Associated Calexico Teachers v. Calexico Unified School District (12/20/82) PERB Decision No. 265

The Board held that the District's unilateral rescission of established lump sum pay policy for wages already earned violated its duty to negotiate.

24. Brawley Union High School Teachers Association, CTA/NEA v. Brawley Union High School District (12/21/82) PERB Decision No. 266

The Association alleged, and the Board found, that the District violated EERA by unilaterally refusing to make a "lump sum" payment of earned wages as required by the collective bargaining agreement between the parties.

Education Code provisions relating to pay do not preclude negotiation of lump sum payment plans. The District's refusal to honor this provision of its collective bargaining agreement constitutes a change of policy having "a generalized effect or continuing impact upon the terms and conditions of employment of bargaining unit members." The District is ordered to cease and desist, to restore the lump sum payment option, and to post.

25. United Public Employees Local 390, Service Employees International Union, AFL-CIO v. San Lorenzo Unified School District (12/29/82) PERB Decision No. 274

Without prior negotiations with the exclusive representative, the District manager made a salary

range recommendation to the personnel commission for the District. Because the District was at all times willing to negotiate the actual wages for the position and because the recommendation to the commission was a personal one and not made on the director of personnel in his official capacity, the Board found no violation of the statute.

26. Oakland School Employees Association v. Oakland Unified School District (12/29/82) PERB Decision No. 275

The Board reviewed a factual record to determine the legality of the employer's conduct in negotiating the employee organization's proposals concerning a minimum workday for new positions and the selection criteria for vacant positions. The Board concluded that the employer did not violate its obligation to bargain in good faith.

27. Savanna School District v. Savanna District Teachers Association (12/31/82) PERB Decision No. 276

Absent other evidence, the inclusion of non-unit employees, in this case from a neighboring school district, on the negotiating team of an exclusive representative, did not support a refusal to bargain charge against the employee organization.

28. San Francisco Community College District Federation of Teachers Local 2121, CFT/AFT, AFL-CIO v. San Francisco Community College District (12/31/82) PERB Decision No. 278

The Board held that the alleged failure of an employer to comply with a Board order in an earlier case did not constitute an independent violation of EERA. Unless it was demonstrated that the failure to comply was independently violative of the Act because it was undertaken discriminatorily, no new charge could be supported by such an allegation. Rather, a compliance proceeding under the old charge would be the proper means by which to attack a compliance failure.

Further, the Board denied a request for attorney's fees, finding that the District's conduct which led to the filing of the charge was neither frivolous nor undertaken in bad faith.

29. Rio Hondo Faculty Association, CTA/NEA v. Rio Hondo Community College District (12/31/82) PERB Decision No. 279

The Board found that the District's increase in the caseload of Cooperative Work Experience (CWE) instructors (career counselors) from 125 to 140 students constituted an unlawful unilateral change in existing policy. Past practice, shedding light on an ambiguous job description, established that the existing policy in the District had been to assign CWE instructors 125 students to contact each semester, of which a lesser number would actually seek face-to-face counseling services. By increasing the number of students initially assigned to CWE instructors, the District substantially increased their workload.

The Board reversed the hearing officer's finding that the District's assignment of CWE instructors to teach "career development" courses constituted an unlawful unilateral change. Although the District had not previously assigned CWE instructors teaching duties, the record indicates such an assignment was reasonably comprehended within the scope of their existing job duties. Although the Board rejected the District's contention that catchall language in a job description and the use of the word "instructor" in a job title were themselves sufficient to overcome evidence of a contrary past practice, it found that, when the job description was viewed in light of the nature of the CWE program and the type of courses CWE instructors were assigned to teach, the District's conduct was permissible.

The District made an unlawful unilateral change when it altered the method of compensating Public Services Department instructors for the teaching of summer school.

The District made an unlawful unilateral change when it increased the maximum class size of certain courses in the Business Department.

B. Interference with Employee or Organizational Rights

1. Palos Verdes Faculty Association, CTA/NEA v. Palos Verdes Peninsula Unified School District (2/26/82) PERB Decision No. 195

The Board held that the teachers' decision not to give discretionary final examinations was held unlawful

because the decision was not based on educational objectives but was intended as a partial work stoppage during negotiations.

2. American Federation of Teachers, Local 1986, AFT, AFL-CIO v. Novato Unified School District (4/30/82)  
PERB Decision No. 210

Board held that the removal of a teacher from department chair and his transfer to another school was motivated by his activities as organization officer and grievance representative. Business justification offered by the District was inconsistent, departed from its own past practices and failed to rebut evidence of anti-union animus presented by charging party. The teacher was ordered reinstated to chair and former school at beginning of next school year.

3. California School Employees Association, Local 228 v. Konocti Unified School District (6/29/82) PERB  
Decision No. 217

Board held that the District did not violate EERA by suspending a bus driver who stopped the bus while transporting students to school and requested students to support a possible strike. Employee's conduct was unprotected because it was on school property, during work time and involved a captive audience of elementary school children.

4. Service Employees International Union, Local 660, AFL-CIO v. Baldwin Park Unified School District (6/30/82) PERB Decision No. 221

Charging Party alleged that two employees were suspended as a result of their exercise of protected rights. The Board applied the Novato test (PERB Decision No. 210) and found that their protected activity was a motivating factor in the employer's decision to suspend the employees. The employer failed to demonstrate that it would have suspended those employees even in the absence of the protected activity, thus a violation of EERA subsection 3543.5(a) was found.

5. Mt. San Antonio College Faculty Association, CTA/NEA v. Mt. San Antonio Community College District (6/30/82) PERB Decision No. 224

The union alleged that the District acted unlawfully by disciplining two teachers for distributing leaflets critical of the District at a graduation ceremony. The Board found that the action was a protected activity because the leaflets were not defamatory or malicious, but were related to the legitimate interests of the teachers as employees. Additionally, the Board noted that the activity occurred on off-duty time.

The District further violated the law by refusing to provide the Association with the names of other employees so disciplined. In addition, the Board ordered the District to release the names and addresses of employees potentially affected by a court decision affecting tenure of part-time teachers.

6. Bert L. Davis v. Rio Hondo Community College District (7/19/82) PERB Decision No. 226

Contrary to the recommendation of its own administration and the routine practice in such matters, the Board of Trustees denied, without explanation, the request for an unpaid leave of absence submitted by a union activist. The Board applied the Novato test, finding an unlawful reprisal against the employee for his participation in protected activity.

7. Service Employees International Union, Local 715 v. Moreland Elementary School District (7/27/82) PERB Decision No. 227

The Board dismissed the charging party's complaint where the union failed to prove that the District knew of the discharged employee's participation in union organizing, and no evidence was offered of anti-union animus by school officials who recommended the employee's termination for alleged theft of school property or by school board members who terminated the employee for this reason after conducting an independent hearing.

8. San Ramon Valley Education Association, CTA/NEA v. San Ramon Valley Unified School District (8/9/82) PERB Decision No. 230

The Board held that the school board's refusal to allow the union representative to address it concerning an advisory arbitration award interfered with the representative's statutory rights; the representative was not seeking to negotiate or litigate the grievance.

9. Henrienne Allums v. Los Angeles Unified School District (9/20/82) PERB Decision No. 237

Charging party alleged that the statute of limitations was tolled by filing an EEOC complaint over the same transaction which formed the basis for the unfair practice charge.

The Board held that the doctrine of equitable tolling did not apply, because the charging party did not raise a colorable EEOC claim, and other attempts to grieve the matter did not constitute exhaustion of reasonable alternative remedies.

10. Coast California Teachers Association, CTA/NEA v. Coast Community College District (10/15/82) PERB Decision No. 251

The Board held that the employer did not unlawfully discriminate against part-time teachers who were union organizers by cancelling classes for which enrollment was low or where full-time teachers had bumping rights.

11. United Public Employees, Local 390, SEIU, AFL-CIO v. San Ramon Valley Unified School District (10/29/82) PERB Decision No. 254

By refusing to distribute the employee organization newspaper through the internal mail system because the contents advocated the defeat of Proposition 6, the District committed an unfair practice against the organization. Rather than being a school measure covered in Education Code section 7054, which would have been inappropriate use of the mail, the Board found that Proposition 6 was a statewide measure.

12. Chula Vista Elementary Education Association, CTA/NEA v. Chula Vista City School District (11/8/82) PERB Decision No. 256

The charge that the District interfered with the exclusive representative's right to represent a grievant was dismissed where the evidence demonstrated that the grievant preferred a non-union representative.

13. Joseph James Catalfano v. Sacramento City Unified School District (11/18/82) PERB Decision No. 259

The District was charged with terminating an employee for engaging in union activity. The evidence indicates that the employee quit and was not terminated. The evidence of the employee's union activity is minimal as well. The charge was dismissed because the employee failed to establish a prima facie case.

14. Rio Hondo Faculty Association, CTA/NEA v. Rio Hondo Community College District (11/30/82) PERB Decision No. 260

The Board held that the District interfered with the right of an employee to participate in organizational activity by reprimanding her for an utterance made at a staff meeting which the superintendent considered profane. The nature of the utterance was not so indefensible as to remove its protection. Reprimand of another employee who made a similar utterance violated the employee's right to be represented at a disciplinary proceeding.

15. California School Employees Association and its Delta College Chapter 359 v. San Joaquin Delta Community College District (11/30/82) PERB Decision No. 261

The Board held that the District was unlawfully motivated in its decision to transfer an employee organization activist out of his prior classification as a police officer to the grounds crew. Noting the employee's outspoken union activism, his previously unblemished work record, disparate treatment of non-union activist co-workers, anti-union animus expressed by the District, minimal transgressions by the employee, and the severity of the discipline, the Board concluded that his protected conduct was a

factor in the District's disciplinary decision, and the District failed to show that it would have taken the same personnel action notwithstanding the employee's protected activity.

16. Los Angeles County Education Association, CTA/NEA v. Office of the Los Angeles County Superintendent of Schools (12/16/82) PERB Decision No. 263

The Association charged that the employer violated EERA by transferring two counselors in the Regional Occupational Program (ROP) to positions as day-to-day substitutes in special schools as part of a general ROP budget reduction.

The Board found that under the Novato test (PERB Decision No. 210), the Association failed to show that one employee's protected activity was a motivating factor in the Office's decision to transfer her. While protected activity was a motivating factor in the transfer of the other employee, the Office has shown that, regardless of protected activity, the employee would have been among the ten counselors transferred on the basis of her counseling performance as compared to that of the counselors retained. Neither were the transfers of these two Association activists "inherently destructive" of employee rights under Carlsbad (PERB Decision No. 89) since the Association presented no evidence that the transfers tended to have a chilling effect on the exercise of employee rights or otherwise interfered with any employee right under the Act.

17. North Sacramento Education Association, CTA/NEA v. North Sacramento School District (12/20/82) PERB Decision No. 264

The Board affirmed a hearing officer's proposed decision finding that an employee was unlawfully retaliated against for filing a grievance pursuant to a negotiated grievance procedure. Participation in a negotiated grievance procedure is expressly protected in EERA.

The Board reversed the hearing officer's finding that retaliation against an employee for participation in the negotiated grievance process constitutes "interference in the day-to-day operation of a collective agreement" in violation of EERA. There was insufficient evidence to establish that this isolated

act of retaliation against a single employee constituted an unlawful unilateral change in established policy or a repudiation of contractual obligations.

18. Rio Hondo Faculty Association, CTA/NEA v. Rio Hondo Community College District (12/28/82) PERB Decision No. 272

The Board found that the evidence in this case was insufficient to support allegations that the employer retaliated against employees for their organizational activity. However, the employer's refusal to meet with three employees regarding a grievance, as long as those employees were accompanied by their employee organization representative, was found to be an unlawful denial of rights.

### C. Strikes and Work Stoppages

1. Fresno Unified School District v. Fresno Teachers Association, CTA/NEA (4/30/82) PERB Decision No. 208

The Board held that a strike used as a pressure tactic during negotiations was an unlawful refusal to bargain or to utilize statutory impasse proceedings in good faith. The Board also held that the District's suspension of dues during the work stoppage violated the employees' absolute statutory right to such deductions. The Board denied an award of alleged damages resulting from the strike where the District failed to file a timely unfair practice charge or seek injunctive relief from PERB.

2. Westminster Teachers Association, CTA/NEA v. Westminster School District (12/31/82) PERB Decision No. 277

The Board held that the Association did not violate its duty to negotiate in good faith by: (1) refusing to accept and respond to a District offer during mediation, and (2) addressing the school board at a public meeting regarding negotiations.

The Association violated EERA by engaging in an economic strike prior to the completion of the statutory impasse procedures.

The District was not awarded damages or legal costs.

## D. Cases of Special Interest

### 1. Deferral to Arbitration

- a. California School Employees Association Pittsburg Chapter 44 v. Pittsburg Unified School District  
(3/15/82) PERB Decision No. 199

The Board held that the District violated the EERA by unilaterally changing work hours, schedule, and eligibility for overtime pay. The Board also held that it is required to defer its unfair practice jurisdiction only where the parties have agreed to a grievance procedure terminating in binding arbitration.

- b. California School Employees Association, San Juan Chapter 127 v. San Juan Unified School District  
(3/31/82) PERB Decision No. 204

The Board held that it is not obligated to defer to arbitration where the subject matter of the controversy is not covered by the negotiated agreement or by a separate agreement to submit to arbitration.

- c. Los Angeles City and County School Employees Union, Local 99, Service Employees International Union, AFL/CIO v. Los Angeles Unified School District (6/30/82) PERB Decision No. 218

Board refused to issue a complaint where the arbitrator considered all aspects of the alleged unfair practice and his binding award was not repugnant to EERA's purposes and policies.

### 2. Duty of Fair Representation

- a. Fred S. Fleck v. Chaffey Joint Union High School District and Associated Chaffey Teachers, CTA/NEA  
(3/26/82) PERB Decision No. 202

Board held that the Association and District did not violate EERA by negotiating a grievance procedure which required grievants to use Association-approved representatives, because employees do not have an absolute right to adjust their own grievances.

- b. Michael Edward Pottorff v. Service Employees International Union, Local 99 (3/30/82) PERB Decision No. 203

The Board dismissed an employee's charge alleging that the former exclusive representative violated its duty of fair representation by withdrawing objections to a decertification election. The Board held that by withdrawing its objections to a decertification election, the union did not extinguish its status as exclusive representative. The union lost such status only when PERB certified the results of a decertification election. Judging union's withdrawal of election objections by duty of fair representation standards, the action was not proven to be arbitrary, discriminatory or in bad faith but rather an unequivocal and good faith disclaimer of further interest in representing the unit.

- c. Don Hagopian v. San Francisco Federation of Teachers, Local 61, CFT/AFL-CIO (6/30/82) PERB Decision No. 222

The Board held that the exclusive representative breached its duty of fair representation when it declined to take a nonmember's grievance to arbitration unless he paid a share of the arbitration costs but did arbitrate identical grievances of its members without additional cost to them.

- d. Mallory Lyn Willis and Pamela Sue Mills-Willis v. El Centro Elementary Teachers Association (8/11/82) PERB Decision No. 232

Charging parties were not union members. The exclusive representative had permitted nonmembers to attend Association meetings and vote on proposals. The Association changed the policy and withdrew nonmember voting right, still allowing them to attend meetings.

The Board held that the Association did not breach its duty of fair representation since it allowed views of nonmembers to be aired and allowed nonmembers access to meetings. There is no requirement that the Association provide formal procedures such as voting rights.

- e. Beverly Collins v. United Teachers of Los Angeles  
(11/17/82) PERB Decision No. 258

PERB summarily affirmed hearing officer's dismissal, with leave to amend, of charge alleging a violation of Association's duty of fair representation. The charging party failed to state a prima facie violation of EERA rights since she did not allege facts which tended to show that the Association acted arbitrarily, discriminatorily, or in bad faith.

3. Procedures

- a. Joseph James Catalfano v. Sacramento City Unified School District (3/18/82) PERB Decision No. 200

PERB refused to consider an amended brief in support of exceptions that was untimely filed because charging party failed to demonstrate extraordinary circumstances as required by PERB Rule 32133.

- b. Oakland School Employees Association v. Oakland Unified School District (8/31/82) PERB Decision No. 236

PERB held that the District violated the EERA by unilaterally deferring 2 percent of an 8 percent employee tax sheltered annuity. PERB rejected the District's argument of business necessity and waiver.

- c. California School Employees Association, Placer Hills Chapter No. 636 v. Placer Hills Union School District (11/30/82) PERB Decision No. 262

Refusal to bargain charge against school district was dismissed where its termination of CETA employee was proper under applicable sections of the Education Code and in conformity with established policy and procedure.

- d. California School Employees Association and its Victor Valley Chapter No. 243 v. Victor Valley Joint Union High School District (12/29/82) PERB Decision No. 273

Following the exhaustion of non-negotiated grievance procedures the employee organization

filed a charge against the District alleging a unilateral change in wages and hours of cafeteria employees. In deciding this case, the Board applied a theory of "equitable tolling" and overturned the dismissal by the hearing officer for lack of timely filing. Prior to the application of "equitable tolling" only those grievances filed pursuant to a negotiable grievance procedure would suspend the filing deadlines of the statute. Here, the Board has made an equitable extension of the principle to non-negotiable grievance procedures.

#### 4. Remedy

- a. California School Employees Association and its Lodi Chapter 77 v. Lodi Unified School District (9/29/82) PERB Decision No. 239

PERB held that the District unilaterally altered the vacation benefits of classified employees by applying vacation pay for four days the District delayed the starting of school. The District excepted to the remedy which ordered that each employee receive four additional days of paid vacation to replace the four days unilaterally applied. These additional vacation days were to be scheduled in accordance with the relevant provisions of the contract.

PERB held that the status quo ante was the appropriate remedy. Employees were paid for days they didn't work but lost the benefit of the right to take vacation. Therefore, the District was ordered to credit employee with four additional days of vacation.

- b. Opal L. Herrin v. Lemoore Union High School District (12/28/82) PERB Decision No. 271

PERB held that the District unlawfully discriminated against applicant for promotion who had been active in union affairs where District representative on panel interviewing candidates held anti-union bias. The Board ordered new examination.

## 5. Organizational Security

- a. William J. Cumero v. King City High School District Association, CTA/NEA; King City Joint Union High School District; California Teachers Association; National Education Association  
(3/3/82) PERB Decision No. 197

The Board held that an employee's obligation to pay service fees to exclusive representative does not violate their right to refrain from joining or participating in labor organizations activities; however, organizations' use of fees is limited to defraying cost of representation services. Board also held that service fee arrangements which do not require termination of employment of nonpayers are permissible under EERA.

### SEERA

#### A. Refusal to Negotiate or Utilize Statutory Impasse Proceeding

1. Association of California State Attorneys and Hearing Officers v. State of California (Franchise Tax Board)  
(7/29/82) PERB Decision No. 229-S

The Board held that the Franchise Tax Board (FTB) did not violate SEERA by failing to meet and discuss a change in a preferential parking assignment policy. The facts indicated that the exclusive representative, ACSA, was afforded notice and a reasonable opportunity to meet and discuss the proposed policy change. FTB representatives met with ACSA, solicited its views, and responded thereto. No discrimination was proven, as both SEERA-covered and noncovered employees were deprived of parking under the new policy and no showing was made that FTB was motivated to act as it did by the protected activities of ACSA-represented employees.

The Board held for the first time in this case that the Novato test (PERB Decision No. 210) applies to SEERA cases arising under subsection 3519(a) in which discriminatory adverse personnel action is alleged.

B. Interference with Employee or Organizational Rights

1. State of California and Judicial and Legal Coalition (Administrative Law Judges' Council, State Trial Attorneys Association and California State Employees' Association and ACSA - Association of California State Attorneys and Hearing Officers (3/10/82) PERB Decision No. 198-S

The state regulations covering access to the mail system, even though unlawful, did not prevent employees from making a free choice of exclusive representatives because the charging party did use the system. The fact that one member of a coalition of groups failed to use the system cannot be deemed to constitute harmful interference.

2. William Thomas Monsoor v. State of California (Department of Developmental Services) (7/28/82) PERB Decision No. 228-S

The Board held that the activities engaged in by Charging Party at the employer-run housing facility constituted participation in "organizational activity" within the meaning of SEERA. The housing concerns were related to employer-employee relations, because employee housing is an inducement to employment. However, insufficient evidence was presented to conclude that the State terminated charging party because of his protected organizational activity.

3. State Employees Trades Council, Local 1268, LIUNA, AFL-CIO v. State of California (Department of Transportation) (11/16/82) PERB Decision No. 257-S

PERB held that the District's discipline of an employee was not unlawful where the employee conducted surveillance of his supervisor during nonworking hours and his surveillance was based on personal animosity and bore no relationship to his working conditions.

4. State Employees Trades Council Local 1268, LIUNA, AFL-CIO v. State of California, (Department of Transportation) (12/21/82) PERB Decision No. 268-S

The Board overturned the factual findings of the hearing officer. In so doing, the Board found insufficient evidence was presented by the charging

party to prove that threatening remarks were made by a supervisor to an employee during the course of a meeting involving the two and others.

### C. Cases of Special Interest

#### Procedures

Doris McKenney v. State of California (Department of Health Services) (12/22/82) PERB Decision No. 269-S

Charging Party appeals the dismissal of her amended charge without leave to amend. Among other grounds, the hearing officer found that the charge was filed more than six months after the complained of employer action.

While PERB has endorsed the doctrine of equitable tolling, it was found that the doctrine does not extend to include consultations with legislators as an activity which will toll the statute. The dismissal was affirmed.

### HEERA

#### A. Refusal to Negotiate or Utilize Statutory Impasse Proceeding

United Health Care Employees, Service Employees International Union, Local 660, AFL-CIO, CLC v. The Regents of the University of California (UCLA) (12/21/82) PERB Decision No. 267-H

The Board found that the University violated HEERA by unilaterally increasing the workday of lab technologists from 10 hours to 10.5 hours per day without providing the nonexclusive representative with an opportunity to meet and discuss the change prior to implementation.

Until an exclusive representative is selected, HEERA requires higher education employers to provide nonexclusive representatives with notice and an opportunity to meet and discuss matters which are fundamental to the fulfillment of the representational function. Hours of work are fundamental.

The University is ordered to cease and desist, to restore the status quo ante and meet with the union on request, and to retain the status quo until the

completion of discussion, but not more than 30 days, or until a request for exception is approved or denied by the University, if grounds for filing a request for exception exist.

B. Interference with Employee or Organizational Rights

College and University Service Employees/Service Employees International Union, AFL-CIO, v. California State University, Sacramento (4/30/82) PERB Decision No. 211-H

The Board dismissed Charging Party's allegations that an employee's dismissal was the result of the exercise of protected rights. The Board upheld the right of the employer to maintain business-like control over access to personnel files, but found that the employer violated the HEERA by failing to meet and discuss a subsequent change in the access policy with the non-exclusive employee organization.

C. Cases of Special Interest

1. Procedures

- a. Laborers Local 1276, LIUNA, AFL-CIO and Alameda County Building and Construction Trades Council v. Regents of the University of California, Lawrence Livermore National Laboratory (4/30/82) PERB Decision No. 212-H

The Board held that HEERA requires an employer to give non-exclusive representatives advance notice and an opportunity to discuss matters basic to the employment relationship prior to changing such terms and conditions. PERB also held that certain restrictions on access to the Lawrence Livermore National Laboratory for non-employee organizers violated HEERA, while other regulations were reasonable.

- b. Laborers Local 1276, LIUNA, AFL-CIO and Alameda County Building and Construction Trades Council v. Regents of the University of California, Lawrence Livermore National Laboratory (4/30/82) PERB Decision No. 212a-H

The Board denied the University's request for reconsideration because the University failed to demonstrate that it was denied due process in the unfair practice proceeding.

## 2. Remedy

- a. College and University Service Employees - Service Employees International Union, AFL/CIO v. California State University, Hayward (8/10/82)  
PERB Decision No. 231-H

CSU installed time clocks and required employees to punch in and out in the Plant Operations Department in reprisal for an employee's protected concerted activity. The Association objected to the portion of the hearing officer's Remedy that requires the University to return to the previous timekeeping system for 90 days or until such time that a representation election occurs, whichever was sooner.

Because CAUSE-SEIU has withdrawn from University, circumstances have changed. Thus, the Board modified the Remedy so as to require only the posting of a Notice. The purposes of the Act would not be effectuated by a return to the old timekeeping procedure.

### MISCELLANEOUS

#### HEERA

#### Students in Bargaining

The Regents of the University of California v. University of California Student Presidents' Council (10/27/82) PERB Decision No. 253-H

The Board affirms the administrative law judge's finding that the members of the peace officers' bargaining unit are not "student service personnel" within the meaning of HEERA subsection 3597(a). Thus, a student representative is not entitled to participate in negotiations between the Statewide University Police Assn. (SUPA) and the University as set forth in section 3597 of HEERA.

Employees will be found to be "student service personnel" if it is established that they are "primarily engaged in providing service to students." In making its determination, the Board examined the full range of police duties and evidence of police interaction with students. In particular, it focused on the extent to which students are the primary

recipients of police services, the proportion of police officer time which involves direct police/student contact, and the extent to which police services benefit students in a manner distinct from employees and members of the public.

## UPDATE

### PERB-RELATED LITIGATION

PERB was involved in substantial litigation activity during 1982, participating in 28 new superior court, Court of Appeal, and California Supreme Court cases. Additionally, the Board received decisions in a number of cases that were filed in previous years. Of the cases in which court opinions were issued, however, only two involved published, precedential decisions. The remainder involved summary disposition of petitions seeking review of Board decisions.

These summary dispositions reflect a trend by the appellate courts both to defer to the Board's statutory interpretations unless they are perceived to be clearly erroneous, and to consider Board factual determinations to be conclusive if they are supported by substantial evidence on the record considered as a whole.

A number of significant cases are pending disposition by the California Supreme Court and Court of Appeal.

## Precedential Appellate Opinions

### Public Employment Relations Board v. Modesto City Schools (1982) 136 Cal.App.3d 881

This Court of Appeals case arose from alleged unfair practice activity of the District and the Modesto Teachers Association, CTA/NEA. The case began when (1) the District made unilateral actions during the course of a negotiating dispute with the Association and refused to continue to negotiate with the Association because the parties had exhausted impasse procedures; (2) the Association called a strike against the District in an attempt to force the District to reverse its actions; (3) the District sought injunctive relief from the superior court without filing unfair practice charges or a request for injunctive relief with PERB; and (4) in response to papers filed by the Association asking PERB to request the Court to enjoin the District's conduct, PERB investigated the case, and later requested the superior court to enjoin the strike, conditioned upon the District rescinding their unlawful action.

The Board's decision to enjoin the Modesto strike was the seventh decision ever made by the Board in response to employer requests for injunctive relief against public school employee strikes. In six of those cases, PERB sought and obtained strike injunctions and went on to obtain contempt citations against two unions that continued their strikes after injunctions were issued. In the one case in which PERB declined to seek an injunction, the pleadings submitted by the District were initially rejected, without prejudice to refiling, because they were not in accordance with the Board's filing requirements. Because the district did not submit a perfected request, the matter never reached the Board on its merits.

The superior court (1) dismissed, for lack of jurisdiction, a complaint for injunctive relief filed by the District seeking to enjoin a strike by the Association; and (2) issued the injunction requested by PERB which required the District to negotiate with the Association and to restore employment conditions that the District had unilaterally changed.

The District appealed the superior court's decision to the Court of Appeal. After argument, the Court of Appeal held that PERB had reasonable cause to believe that the District violated its duty to bargain by declining further meetings with the

Association and by unilaterally implementing changes, and that the relief requested by PERB was "just and proper." The Court found that the trial court did not abuse its discretion in its decision to grant the relief requested. The court also held that the Superior Court acted properly in dismissing the District's request for an injunction against the strike.

The Court held that under the California Supreme Court's decision in San Diego Teachers Association v. Superior Court (1979) 24 Cal.3d 1, PERB has initial exclusive jurisdiction over conduct arguably prohibited or protected by the Act. Because the strike was an arguable unfair practice--as a refusal to negotiate or take part in the impasse procedures in good faith--the District was obligated to exhaust PERB unfair practice remedies before initiating suit.

This conclusion applied even though PERB does not have authority to decide whether a strike is a violation of California common law. For, as the Court observed in a prior case (Fresno Unified School District v. PERB (1981) 125 Cal.App.3d 259), to allow the employer to seek adjudication of common law claims without first invoking PERB's unfair practice jurisdiction could well "undermine the very basis of . . . labor law," precluding the Board from addressing and remedying any related unfair practice.

On December 1, 1981 the District filed a Petition for Hearing before the California Supreme Court. The Court denied the Petition on December 28, 1982.

San Lorenzo Education Assn. v. Wilson (1982) 32 Cal.3d 841

This case involves the enforceability of an organizational security provision contained in the collective bargaining agreement between the San Lorenzo Unified School District (District) and the San Lorenzo Education Association (Association). The clause required employees to either join the union or pay a service fee to the union. The Association was responsible for enforcement of this contractual provision. Thus, employees who refused to pay would be sued by the Association, not discharged by the District.

Certain certificated District employees refused either to join the Association or to pay the service fee. While the Association obtained judgments against the employees in the San Leandro-Hayward Municipal Court, the Court of Appeal reversed, holding that the organizational security agreement was unenforceable. The Court of Appeal held that the language of EERA section 3540.1(i)(2) provides that dismissal is the

sole remedy for failure to pay an organizational security fee and that other remedies, such as civil actions, should not be read into the statute. The California Supreme Court granted hearing in the case.

The Supreme Court found that the organizational security provision in the agreement was proper despite its failure to make payment a condition of continued employment, and that a civil suit is a proper and often preferred method of enforcing such a provision. The Court affirmed the judgment of the lower court.

On December 12, 1982 the California Teachers Association filed a Petition for Rehearing which is currently pending.

#### SUMMARY DISPOSITIONS

##### Holtville Unified School District v. PERB

On November 5, 1982, the Holtville Unified School District filed a Petition in the Fourth District Court of Appeal seeking review of the Board's decision (Holtville Unified School District (9/30/82) PERB Decision No. 250) which found that the District violated the EERA by failing to bargain in good faith regarding re-employment of certificated personnel. The Court summarily denied the District's Petition on November 19, 1982. The Supreme Court denied hearing on December 12, 1982.

##### Rialto Unified School District v. PERB

On June 1, 1982, the Rialto Unified School District filed a Petition in the Fourth District Court of Appeal seeking review of the Board's decision (Rialto Unified School District (4/30/82) PERB Decision No. 209) which found that the District violated the EERA by taking certain unilateral actions. The Court summarily denied the District's Petition on September 13, 1982.

##### William Thomas Monsoor v. PERB

On August 27, 1982, William Thomas Monsoor filed a Petition in the Second District Court of Appeal seeking review of the Board's decision (State of California Department of Developmental Services (7/28/82) PERB Decision No. 228-S) which dismissed charges alleging that the Camarillo State Hospital unlawfully rejected Monsoor from employment at the end of his probationary period. The court summarily denied Monsoor's Petition on September 7, 1982.

South Bay Union School District v. PERB

On June 1, 1982, the South Bay Union School District filed a Petition in the Fourth District Court of Appeal seeking review of the Board's decision (South Bay Union School District (4/30/82) PERB Decision No. 206) which found that the District violated the EERA by unilaterally changing the wages and hours of teachers. Because a request for reconsideration was pending before the Board when the District filed its Petition, the Court summarily denied the District's Petition on June 9, 1982.

Sierra Joint Community College District v. PERB

On December 4, 1981, the District filed a Petition in the Third District Court of Appeal seeking review of the Board's decision (Sierra Joint Community College District (11/5/81) PERB Decision No. 179) which found that the District violated the EERA by refusing to grant reasonable released time and by refusing to negotiate over the subject of released time. The Court summarily dismissed the District's Petition on May 6, 1982.

Grant Adult Education Teachers Association v. PERB

On October 29, 1982, the Association filed a Petition in the Third District Court of Appeal and in the Sacramento County Superior Court seeking review of the Board's decision (Grant Joint Union High School District (9/29/82) PERB Decision No. 238) which dismissed their charge alleging that the District refused to "equalize salaries" of adult education teachers. The appellate court summarily dismissed the Petition on December 16, 1982.

PENDING SIGNIFICANT CASES

Healdsburg Union High School District v. PERB; CSEA v. PERB;  
San Mateo City School District v. PERB

Petitions by two school districts and one employee organization seeking to vacate all or part of two Board decisions (Healdsburg Union High School District (6/19/80) PERB Decision No. 132 and San Mateo Unified School District (5/20/80) PERB Decision No. 129) that established a test to determine which subjects are within the scope of representation under EERA, and applied the test to various proposals at issue in the cases. The Board upheld the negotiability of a number of matters relating to wages, hours and enumerated terms and conditions of employment which did not impinge on central

district prerogatives. Based on principles of managerial prerogative or Education Code mandates, the Board held a number of matters nonnegotiable, including classification and reclassification of positions, layoff decisions, abolition of positions, and creation of new positions. The case is currently before the California Supreme Court after decision by the First District Court of Appeal.

El Rancho Unified School District v. NEA

Complaint for damages against unions that were not the exclusive representatives of District employees, for engaging in a strike. Court of appeal held that PERB did not have exclusive initial jurisdiction over the conduct alleged in the complaint because the unions were not exclusive representatives. PERB filed an amicus brief in the Supreme Court supporting the unions' position that PERB does have exclusive initial jurisdiction over the conduct alleged in the District's complaint.

Novato Unified School District v. PERB

Petition by District to vacate the Board's decision (Novato Unified School District (4/30/82) PERB Decision No. 210) which found that the District violated the EERA by transferring a union activist.

Moreno Valley Unified School District v. PERB

Petition by District to vacate the Board's decision (Moreno Valley Unified School District (4/30/82) PERB Decision No. 206) which held that the District violated the EERA by making several unilateral changes prior to the exhaustion of statutory impasse procedures.

William J. Cumero v. PERB

Petition by individual teacher to vacate the Board's decision (King City Union High School District (Cumero) (3/3/82) PERB Decision No. 197) which established and applied a test for evaluating allegations that exclusive representatives have unlawfully refused to relate spent portions of agency fee payments to impermissible purposes. Cumero also challenges the application of PERB's test to specific expenditures made by the exclusive representative in this case.

Regents of the University of California v. PERB

Petition by the University to vacate the Board's decision (Regents of the University of California (11/25/81) PERB Decision No. 183) which held that HEERA requires higher education employers to allow employee organizations to use the internal mail system. A critical issue in the case is whether federal postal regulations prohibit the University from allowing such use of internal mail systems.

Delano Union Elementary Teachers Association v. PERB

Petition by California Teachers Association to vacate the Board's decision (Delano Union Elementary School District (4/30/82) PERB Decision No. 213) which found that the District violated the EERA by reprimanding an employee for participating in protected activity and for taking unilateral actions.

Broadwood v. PERB

Petition by three employees to vacate the Board's decision (Los Altos School District (12/29/81) PERB Decision No. 190) which dismissed charges alleging that a retroactive service fee provision violated the EERA.

Pittsburg Unified School District v. CSEA

Complaint for injunctive relief filed by the District against the Association to enjoin the Association from picketing and leafletting the offices of school board members regarding pending negotiations. The Superior Court issued the injunction, and the Association filed an appeal. PERB filed an amicus brief contending that it had exclusive initial jurisdiction over the conduct alleged in the District's complaint, and that the superior court was without jurisdiction to issue the injunction.

Jefferson Unified School District v. PERB

Petition by District to vacate the Board's decision (Jefferson USD (6/19/80) PERB Decision No. 133) which established and applied a test to determine the negotiability of bargaining proposals submitted by an employee organization representing certificated personnel.

Jefferson/CTA v. PERB

Petition by the California Teachers Association (CTA) challenging the remedial order in the Board's decision (Jefferson School District (6/19/80) PERB Decision No. 133), which found

that the District violated the Act by refusing to negotiate over matters within the scope of representation. By its Petition, CTA sought review of a Board Order (PERB Order No. Ad-82) directing a decertification election. (In Jefferson Elementary School District PERB Decision No. 164, the Board later certified the results of the decertification election.)

State Personnel Board v. PERB

Complaint for injunctive relief and Petition for Writ of Mandate filed by the SPB to prevent PERB from adjudicating unfair practice cases under SEERA which involve the "merit principle" of employment.

UNITS IN PLACE

EERA Units

Total number of School Districts listed	1,194
Total number of Districts with no activity	207
Total number of Districts with activity	988
Total number of Units listed	2,100
Number of Certificated Units	1,024
Number of Classified Units	1,042
Number of Certificated Supervisory Units	10
Number of Classified Supervisory Units	24
Total number of Employees listed	427,696
Number of Certificated Employees listed	245,428
Number of Classified Employees listed	181,188
Number of Certificated Supervisory Employees listed	402
Number of Classified Supervisory Employees listed	678
Total number of units with number of employees not listed	95
Certificated Units	50
All Cert	43
All Cert less Other	2
Adult School Cert	2
Cert Substitutes	1
Child Cert	1
Other Cert	1
Classified Units	43
All Class	17
All Class	
less Inst Aides	1
All Class	
less Operation support	3
Inst Aides	3
Inst Aides/Off-Tech/Bus Serv	1
Off Tech/Bus Serv	7
Operations/Support	4
Skilled Trds/Crfts	1
Security/Police	2
Transportation	2
Cust/Grnds/Maintenance	1
Other Class	1
Certificated Supervisory Unit	2

Number and Type of School Districts listed	
Unified School District	237
Elementary School District	380
High School District	6
Union Elementary School District	257
Union High School District	79
Joint Union Elementary School District	16
Joint Union High School District	30
Joint Unified School District	31
Joint Elementary School District	14
County Office of Education	58
Community College District	70
Public School District (Combined)	9
Miscellaneous Listing	7

SEERA  
UNITS IN PLACE

	<u>Approximate Number of Employees</u>	
Unit 1	24,000	Administrative, Financial and Staff Services
Unit 2	1,800	Attorney and Hearing Officer
Unit 3	2,200	Education and Library
Unit 4	32,000	Office and Allied
Unit 5	4,200	Highway Patrol
Unit 6	6,500	Corrections
Unit 7	4,300	Protective Services and Public Safety
Unit 8	2,300	Firefighter
Unit 9	4,700	Professional Engineer
Unit 10	1,300	Professional Scientific
Unit 11	3,100	Engineering and Scientific Technicians
Unit 12	9,400	Craft and Maintenance
Unit 13	500	Stationary Engineer
Unit 14	800	Printing Trades
Unit 15	6,300	Custodial and Services
Unit 16	1,000	Physician, Dentist and Podiatrist
Unit 17	1,600	Registered Nurse
Unit 18	7,600	Psychiatric Technician
Unit 19	3,100	Health and Social Services/Professional
Unit 20	1,500	Nonprofessional Medical and Social Service Support
Total	118,200	

HEERA  
UNITS IN PLACE

University of California

1	Police
2	Faculty/Santa Cruz
3	LLNL Skilled Crafts
4	UCB/Lawr Berk Skilled Crafts
5	UCSF Skilled Crafts
6	UCLA Skilled Crafts
7	Printing Trades
8	LLNL Technical
9	Systemwide Technical
10	LLNL Service
11	Service
12	Clerical & Allied Services
13	Patient Care Technical
14	Residual Patient Care Prof
15	Registered Nurses
16	LLNL Prof Sci & Eng
17	Professional Librarians
18	Non-Academic Senate Academic and Allied
19	Research and Allied

HEERA  
UNITS IN PLACE

California State University

1	Physicians
2	Health Care Support
3	Faculty
4	Academic Support
5	Operations-Support Services
6	Skilled Crafts
7	Clerical & Admin Support Serv
8	Pub Safty Officers & Invest
9	Technical & Support Services

EERA REPRESENTATION CASE ACTIVITY  
TOTAL FIGURES FOR 1982

	<u>Active as of 1-1-82</u>	<u>Cases Filed 1982</u>	<u>Total Yearly Cases</u>	<u>Closed Cases 1982</u>	<u>Active as of 1-1-83</u>
Representation Petitions	16	61	77	55	22
Decertification Petitions	5	46	51	45	6
Unit Modification Petitions	55	119	174	136	38
Organizational Security Petitions	2	11	13	11	2
Amended Certifications	8	10	18	9	9
Mediation	186	342	528	330	198
Factfinding	29	49	78	62	16
Arbitration	0	4	4	4	0
Public Notice Complaints	8	7	15	7	8
Compliance	12	49	61	29	32
Financial Statements	<u>1</u>	<u>2</u>	<u>3</u>	<u>3</u>	<u>0</u>
TOTALS	322	700	1,022	691	331

HEERA and SEERA  
REPRESENTATION CASE ACTIVITY  
TOTAL FIGURES FOR 1982

	<u>HEERA</u>	<u>SEERA</u>
Request/Intervention	61	2
Unit Mod	1	0
Amended Cert	0	1
Mediation	3	12
Factfinding	2	0
Compliance	<u>7</u>	<u>2</u>
	74	17

**PUBLIC EMPLOYMENT RELATIONS BOARD**  
**ERRA ELECTIONS HELD - 1982**

1982 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
01/13	S-R-485	OS-31	Hanford ESD	C	136	104		Yes-86	No-18		0	0	CA
01/25	LA-R-047B	D-90	Long Beach USD	C	110	102	Runoff	CTA-48	PPA-16	37	1	0	D
01/26	LA-R-836		Compton USD	S	99	58	CUSA-54			4	0	1	CA
02/05	LA-R-107	OS-43	Carlebad USD	C	226	115		Yes-83	No-32		0	0	CA
02/24	SF-R-601B	OS-94	Cotati-Rohnert Park USD	CL	79	68		Yes-35	No-33		0	0	CA
02/25	S-R-707		Cottonwood UnESD	C	42	42	See NO REP		CTA-18	24	0	0	CA
02/25	LA-R-735	D-91	Kern CCD	C	324	281	CTA-169	UTKCCD-105		6	1	1	D
03/04	LA-R-047B	D-90	Long Beach USD	C	110	105	See NO REP	CTA-50		54	1	0	D/RO
03/24	LA-R-149	OS-44	Pleasant Valley SD	CL	166	125		Yes-77	No-48		0	1	CA
03/30	SF-R-025	OS-95	San Ramon Valley USD	C	718	547		Yes-272	No-274		1	0	CA
04/21	LA-R-147	OS-44	Santa Paula UnHSD	CL	49	32		Yes-23	No-9		0	0	CA
04/23	LA-R-073	D-99	San Pasqual Valley USD	CL	45	26	CSEA-16	SPVCEG-10			0	0	D
04/23	LA-R-863		Westmorland UnSD	CL	25	21	CSEA-16			5	0	0	CA
04/28	SF-R-092A	OS-96	Pleasanton JtSD	C	200	119		Yes-81	No-38		0	0	CA
05/05	SF-R-142B	D-84	Vallejo City USD	CL	170	158	PKU-100	CSEA-51		4	3	0	D
05/06	SF-R-558	OS-98	Richmond USD	S	63	24		Yes-21	No-3		0	0	CA
05/12	SF-R-398	D-85	Cabrillo CCD	CL	162	139	SEIU-85	PKU-53		1	0	0	D
05/13	SF-R-069B	D-86	West Valley JtCCD	CL	60	49	SEIU-48			1	0	0	D
05/13	SF-R-069A	D-87	West Valley JtCCD	CL	200	162	SEIU-144			17	1	0	D
05/18	SF-R-517	D-89	San Mateo CCD	C	1077	678	AFT-350	CTA-300		23	5	1	D
05/18	LA-R-152	D-98	Oxnard UnHSD	CL		182	AFT-108	CSEA-67		2	5	2	D
05/18	LA-R-745	UM-210	Pasadena CCD	C	632	371	CTA-334			37	0	0	CA
05/19	S-R-192	D-41	San Joaquin ESD	CL	30	16	See NO REP	CSEA-4		12	0	0	D
05/20	LA-R-865		Edison SD	C	23	23	CTA-13			10	0	0	CA
05/20	S-R-237	D-47	Galt JtUnHSD	CL	44	38	CMSCEA-22	CSEA-12		3	1	0	D
05/21	SF-R-022B	D-88	Santa Clara USD	CL		188	CSEA-122	Teamst-64		1	1	0	D
05/25	LA-R-040	OS-46	Chaffey CCD	CL	226		Yes-102	No-26			0	0	CA
05/26	SF-R-637		Franklin McKinley SD	S	19	17	FMSDADA-10			7	0	0	CA
05/26	SF-R-531	OS-97	Old Adobe UnSD	CL	94	30		Yes-29	No-1		0	0	CA
05/27	S-R-708		Dunsmuir JtUnHSD	CL	8	7	CSEA-7				0	0	CA
05/27	S-R-291	D-43	Evergreen UnSD	C	22	23	AFT-16	CTA-7			0	0	D
05/27	S-R-355	D-45	Evergreen UnSD	CL	38	34	CSEA-25			9	0	0	D
05/27	SF-R-202	D-91	San Bruno Park ESD	C	125	109	CTA-63	AFT-46			0	0	D
06/02	LA-R-124	D-101	Gulver City USD	C	329	300	AFT-163	CTA-135		2	0	1	D
06/02	S-R-271	D-46	Sierra JtCCD	CL	137	113	FUSE-89	CSEA-15		8	1	0	D
06/04	SF-R-638		Fairfield-Suisun USD	CL	108	95	CSEA-48	SEIU-46		1	0	0	CA
06/08	LA-R-084	D-94	Bakersfield City SD	C	863	795	CTA-563	AFT-214		18	0	0	D
06/08	LA-R-362A	D-97	Kern HSD	CL	53	43	See NO REP	CSEA-12		31	0	2	D
06/10	LA-R-146A	D-100	Ventura USD	CL	308	216	CSEA-113	PEAVC-97		6	0	0	D
06/11	SF-R-184Y		San Francisco USD	C	490	242	SFSTO-226			13	3	4	CA
06/11	LA-R-475	D-96	San Ysidro SD	C	155	136	AFT-83	CTA-53			0	0	D
08/20	LA-R-867		Los Angeles CCD	S	198	137	Runoff	SEIU-57	APSSE-17	63	0	0	CA
09/16	SF-R-111B	D-90	Jefferson UnHSD	CL	50	40	Teamst-37	AFBCME-2		1	0	1	D
09/17	SF-R-003C	D-93	Contra Costa CCD	CL	147	110	PEU-78	CSEA-25		7	0	0	D
09/17	LA-R-868		San Diego CCD	C	160	142	See NO REP	SPIA-66		76	0	0	D
10/01	LA-R-867		Los Angeles CCD	S	198	143	SEIU-75			68	0	0	D/RO
10/18	LA-R-105	D-88	Redlands USD	CL	468	335	RCEA-284	CSEA-42		9	0	1	D
10/19	LA-R-001A	D-102	Los Angeles USD	CL	299	233	LAUSDPOA-202	CSEA-26		5	0	1	D
10/20	S-R-004	D-50	Turlock JtUnHSD	C	105	98	AFT-69	CTA-27		2	0	0	D

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PUBLIC EMPLOYMENT RELATIONS BOARD  
PERA ELECTIONS HELD - 1982

1982 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
10/21	SF-R-215	D-94	Gilroy USD	C	359	339	CTA-172	AFT-163		4	0	1	D
10/25	LA-R-871		Solana Beach SD	CL	46	33	See NO REP	CSEA-16		17	0	0	CA
10/28	LA-R-607	D-104	El Rancho USD	C	480	450	ERFOT-239	CTA-206		1	4	2	D
11/03	LA-R-570	D-105	Riverside COE	CL	371	217	CSEA-214			3	0	2	D
11/22	S-R-238	D-51	Arcohe UnESD	CL	12	9	ASCEA-7	CSEA-2		0	0	0	D
12/09	S-R-018	D-53	Palo Verde UnESD	C	17	17	PVTA/CTA-8			9	0	0	D
12-09	S-R-721		Galaveras COE	C	88	61	TCSEA/CTA-54			7	0	0	D
12-14	LA-R-873		Snowline JtUSD	CL	65	39	CSEA-36			3	0	0	CA

PUBLIC EMPLOYMENT RELATIONS BOARD  
PERA ELECTIONS HELD - 1982

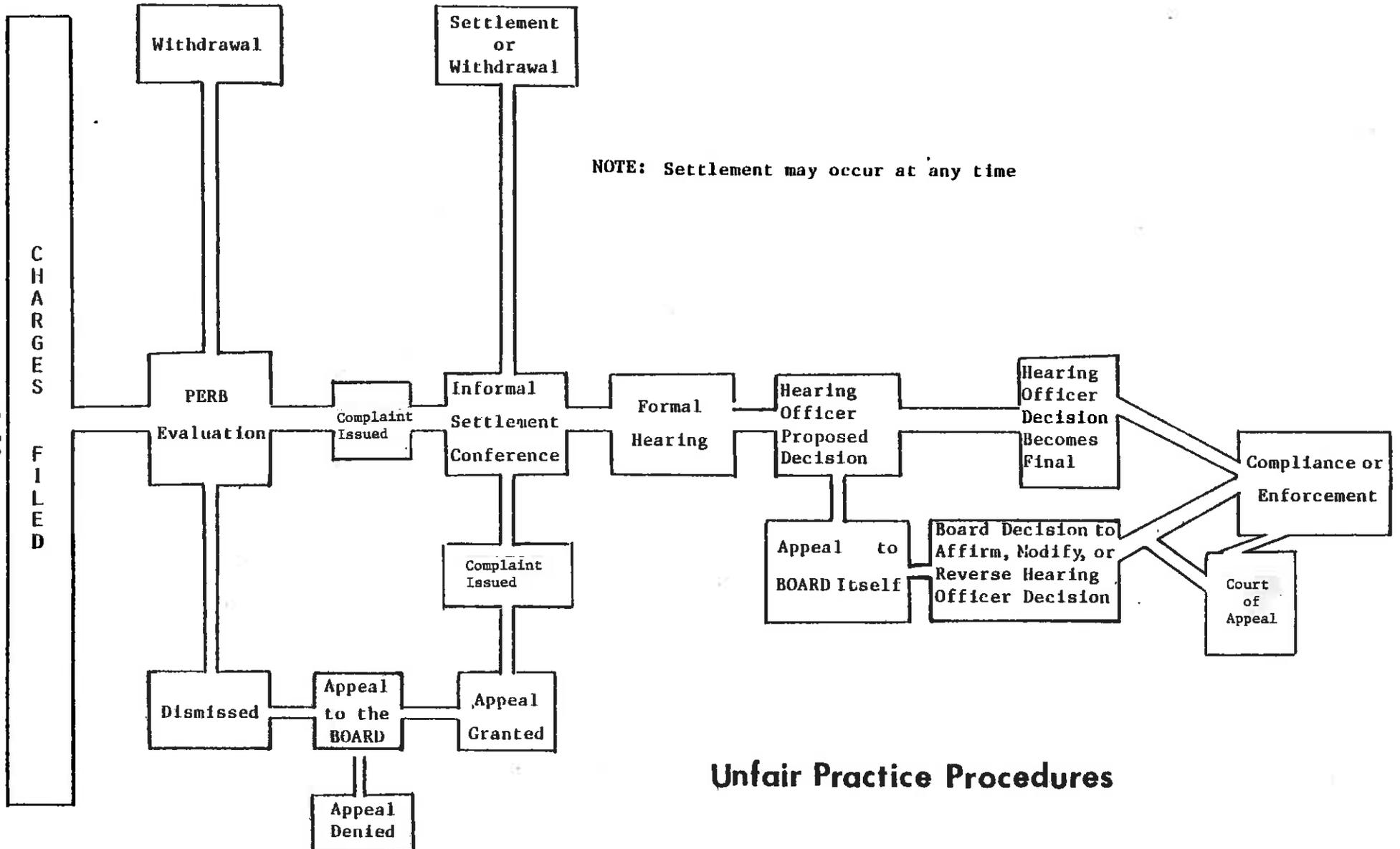
A-8

1982 DATE HELD	R-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
02/01	LA-HR-1	CA State Univer & Coll	#1-Physicians	140	105	UAPD-83	UPC-3		19	1	0	D
02/01	LA-HR-2	CA State Univer & Coll	#2-Health Care Support	279	217	HCBC/CSEA- 96	UPC-64	PDUFCWL-14	14	2	2	D
02/02	LA-HR-3	CA State Univer & Coll	#3-Faculty	19,329	15,424	UPC-6316	CFA-6267		2400	441	28	D
02/02	LA-HR-4	CA State Univer & Coll	#4-Academic Support	1,335	1,031	UPC-505	CFA-391		123	12	2	D
02/01	LA-HR-5	CA State Univer & Coll	#5-Operations- Support Svcs	2,108	1,140	OSBC/CSEA- 1052			76	12	9	D
02/01	LA-HR-6	CA State Univer & Coll	#6-Skilled Crafts	815	691	SETC-346	SCBC/CSEA-224	IUDESED-92	22	7	10	D
02/03	LA-HR-7	CA State Univer & Coll	#7-Clerical & Admin Support Svcs	6,677	3,857	CASBC/CSEA- 2000	AFSCME-1177		700	40	20	D
05/10	LA-HR-2	CA State Univer & Coll	#2-Health Care Support	279	192	CSEA-120	UPC-69		N/A	0	3	D/RO
05/11	LA-HR-3	CA State Univer & Coll	#3-Faculty	19,106	13,594	None	UPC-6491	CFA-6479	N/A	271	353	D/RO
05/11	LA-HR-4	CA State Univer & Coll	#4-Academic Support	1,354	917	UPC-486	CFA-414		N/A	11	6	D/RO
12/09	LA-HR-9	CA State Univer & Coll	#9-Technical & Support Svcs	2,107	1,206	TSSBC/CSEA- 739	TEC-244		222	1	3	D

Abbreviations to the election log

AFSCME	American Federation of State, County & Municipal Employees
APSSSE	Association of Public School Supervisory Employees
ASCEA	Arcohe School Classified Employees Association
C	Certificated
CA	Consent Agreement
CL	Classified
CSEA	California School Employees Association
CUSE	Classified Union of Supervisory Employees
D	Decertification (when part of case number)
D	Directed Election
ERFOT	El Rancho Federation of Teachers
FMSDADA	Franklin-McKinley School District Association of District Administrators
FUSE	Federation of United School Employees
GHSCEA	Galt High School Classified Employees Association
LA	Los Angeles
LAUSDPOA	Los Angeles Unified School District Peace Officers Association
OS	Organizational Security
PEU	Public Employees Union
PPA	Pupil Personnel Association
PVTA	Palo Verde TA
R	Representation
RCEA	Redlands Classified Employees Association
RO	Runoff
S	Supervisory
S	Sacramento (when part of case number)
SEIU	Service Employees International Union
SF	San Francisco
SFSTO	San Francisco Substitute Teachers Organization
SPIA	Special Project Instructors Association
SPVCEG	San Pasqual Valley Classified Employees Group
TCSEA	Tri County Special Educators Association
UM	Unit Modification
UTKCCD	United Teachers of Kern CCD

A-10



NOTE: Settlement may occur at any time

### Unfair Practice Procedures

TOTAL FILINGS - 1982  
UNFAIR PRACTICE CASES - BY ACT

CE's

	<u>EERA</u>	<u>SEERA</u>	<u>HEERA</u>	<u>TOTAL</u>
JAN	30	8	5	43
FEB	31	5	4	40
MAR	40	8	4	52
APR	23	11	7	41
MAY	28	19	6	53
JUN	32	13	6	51
JUL	35	8	7	50
AUG	27	7	8	42
SEPT	43	5	5	53
OCT	36	5	4	45
NOV	45	7	5	57
DEC	<u>42</u>	<u>2</u>	<u>11</u>	<u>55</u>
TOTAL	412	98	72	582

CO's

	<u>EERA</u>	<u>SEERA</u>	<u>HEERA</u>	<u>TOTAL</u>
JAN	7	0	0	7
FEB	6	0	0	6
MAR	9	1	1	11
APR	6	0	0	6
MAY	3	0	0	3
JUN	9	0	0	9
JUL	3	0	0	3
AUG	3	3	1	7
SEPT	5	1	0	6
OCT	6	0	0	6
NOV	5	0	0	5
DEC	<u>7</u>	<u>0</u>	<u>0</u>	<u>7</u>
TOTAL	69	5	2	76

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GRAND				
TOTALS	481	103	74	658

SEERA  
UNFAIR PRACTICE CASELOAD CHART - 1982

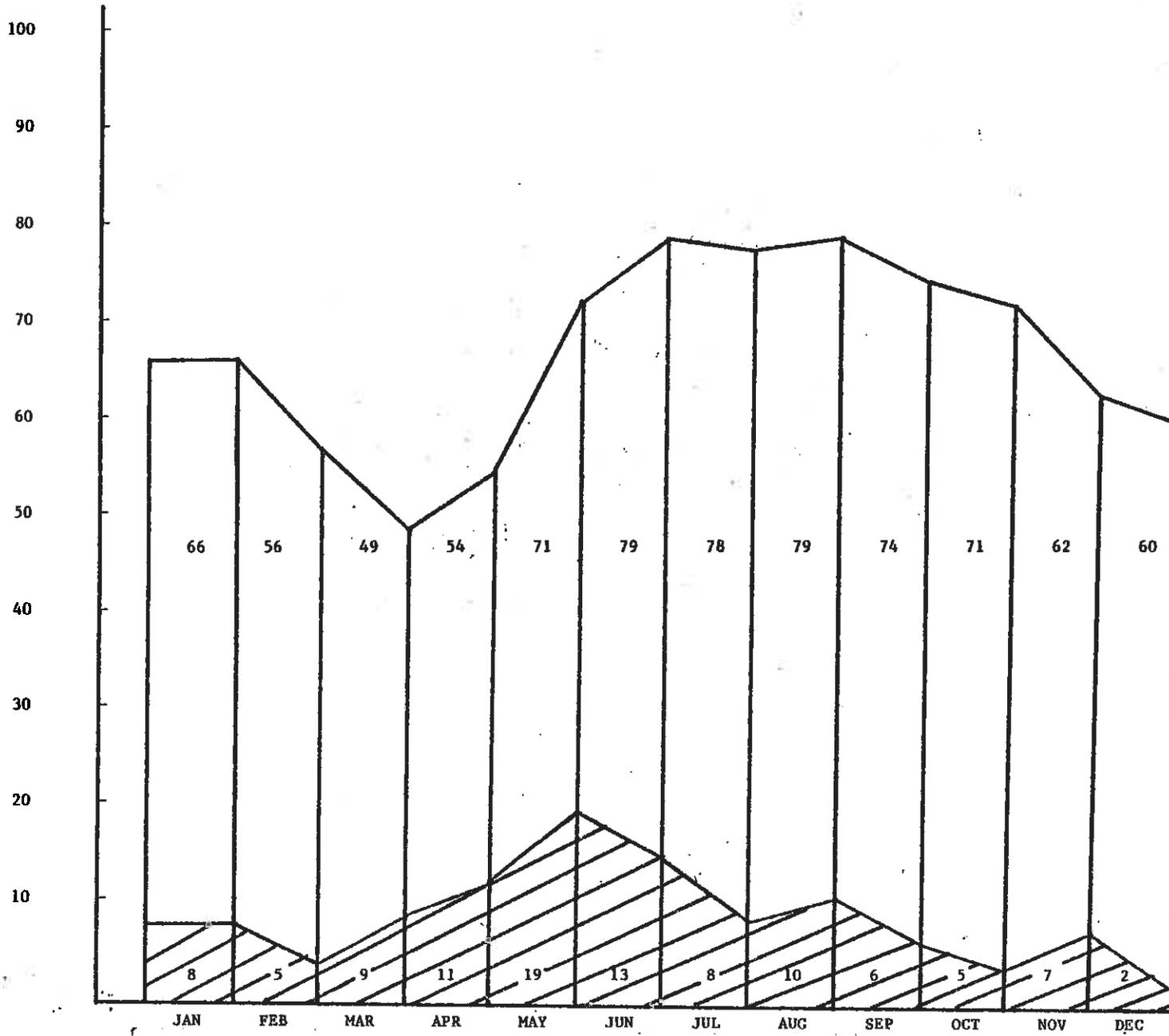


Total Open Unfair Practice Cases Pending



Total New Unfair Practice Charges Filed During Monthly Reporting Period

A-12



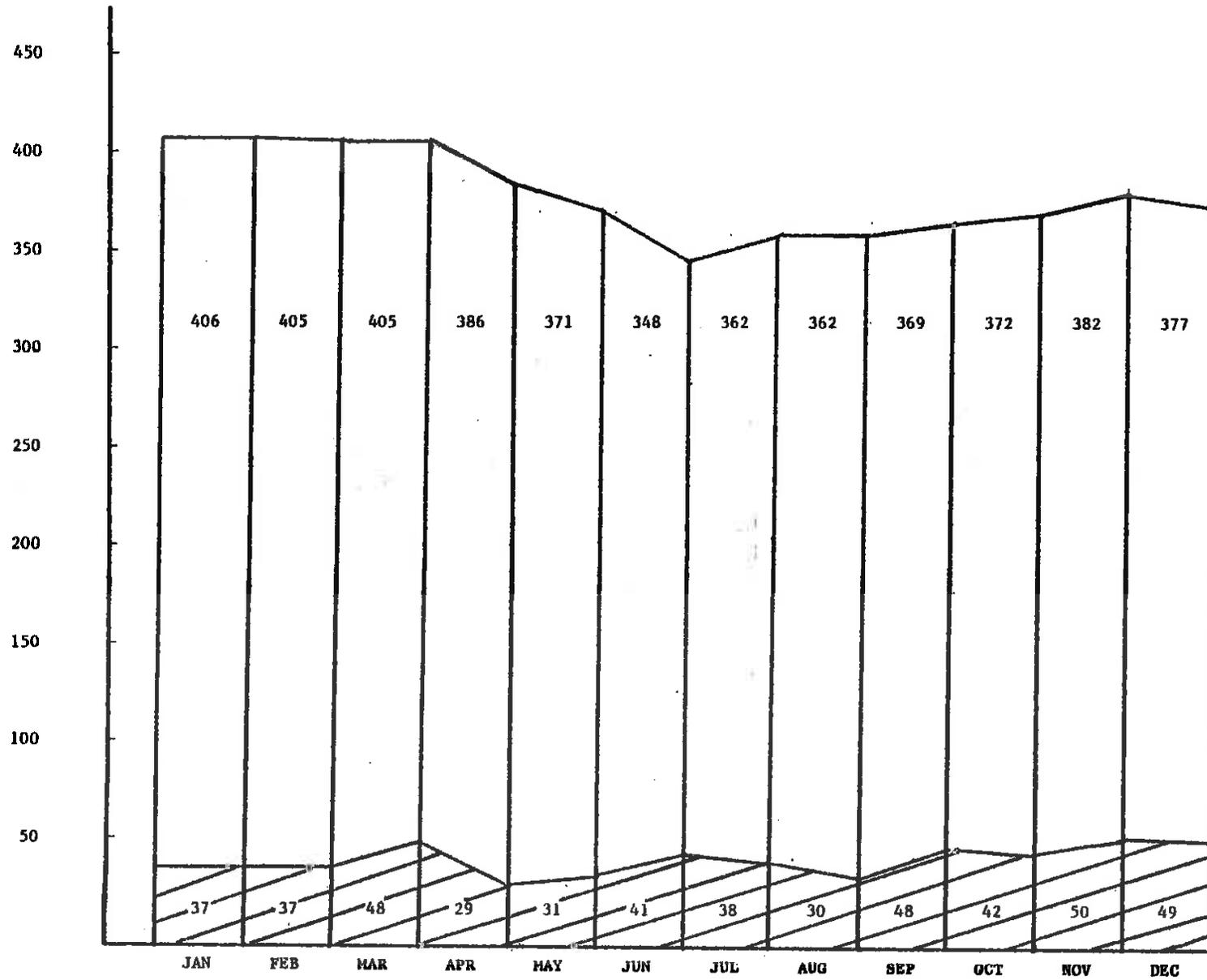
EERA  
UNFAIR PRACTICE CASELOAD CHART - 1982



Total Open Unfair Practice Cases Pending



Total New Unfair Practice Charges Filed During Monthly Reporting Period



A-13

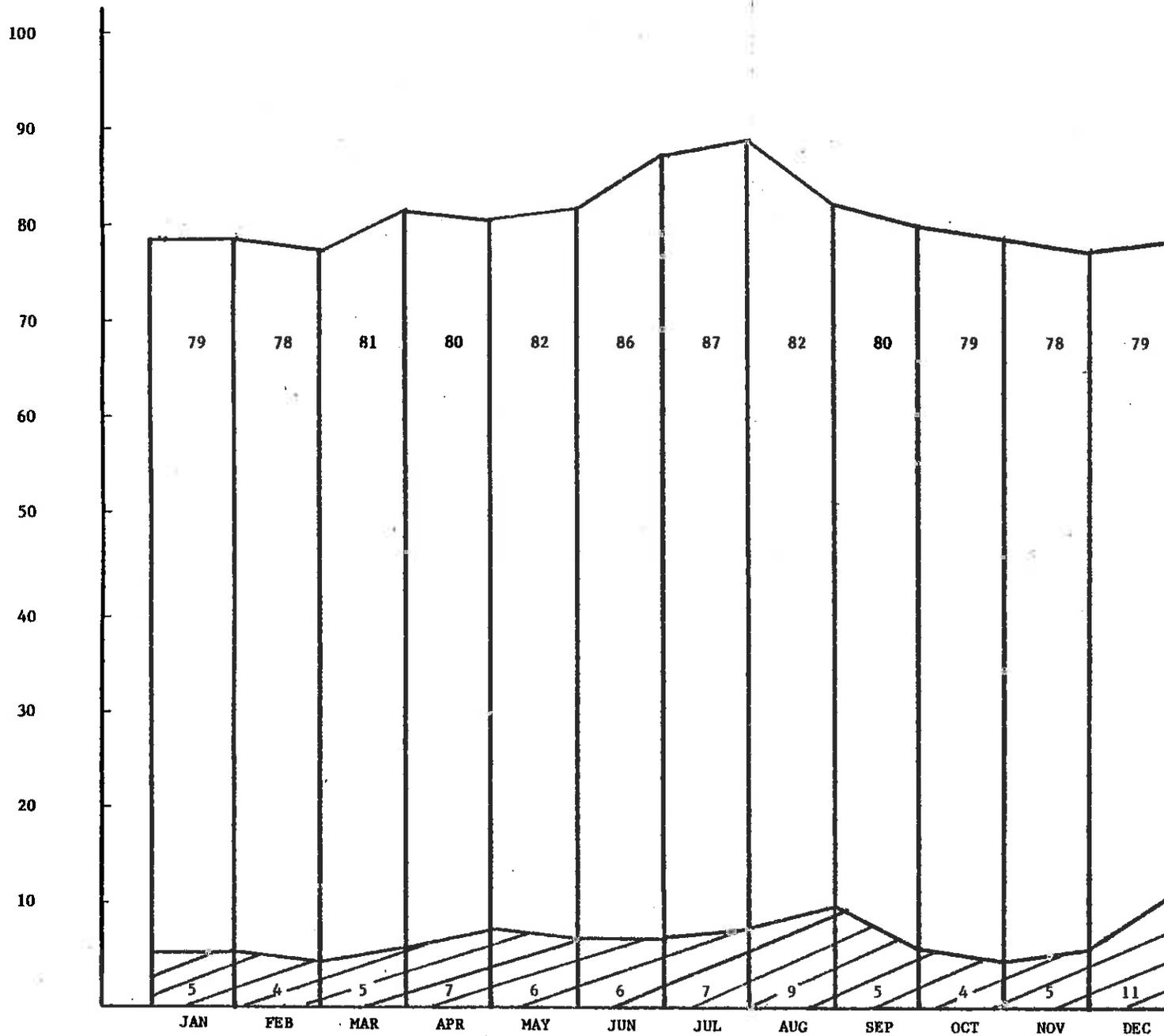
HEERA  
UNFAIR PRACTICE CASELOAD CHART - 1982



Total Open Unfair Practice Cases Pending



Total New Unfair Practice Charges Filed During Monthly Reporting Period



EERA-SEERA-HEERA  
 UNFAIR PRACTICE CASE ACTIVITY  
 TOTAL FIGURES FOR 1982

	<u>Active as of 1-1-82</u>	<u>Cases Filed 1982</u>	<u>Total Yearly Activity</u>	<u>Closed Cases 1982</u>	<u>Active as of 1-1-83</u>
<u>EERA</u>					
CE	320	412	732	409	323
CO	<u>72</u>	<u>69</u>	<u>141</u>	<u>86</u>	<u>55</u>
TOTAL	392	481	873	495	378
 <u>SEERA</u>					
CE	69	98	167	111	56
CO	<u>3</u>	<u>5</u>	<u>8</u>	<u>4</u>	<u>4</u>
TOTAL	72	103	175	115	60
 <u>HEERA</u>					
CE	79	72	151	74	77
CO	<u>0</u>	<u>2</u>	<u>2</u>	<u>0</u>	<u>2</u>
TOTAL	79	74	153	74	79
 <u>TOTAL - three acts</u>					
CE	468	582	1,050	594	456
CO	<u>75</u>	<u>76</u>	<u>151</u>	<u>90</u>	<u>61</u>
TOTAL	543	658	1,201	684	517

INJUNCTIVE RELIEF REQUESTS - 1982

Case Name	No.	Allegation	Filed	Disposition
1. CUCAMONGA ELEMENTARY UNION SCHOOL DISTRICT v. CUCAMONGA ED. ASSN., CTA/NEA	LA-CO-215	Association engaged in "escalating work slowdown".	1/25/82	Denied IR #33
2. CWA PSYCH UNION, LOCAL 11555, AFL/CIO v. DEPT. OF DEVELOPMENTAL SERVICES AND MENTAL HEALTH	S-CE-115-S	Unilateral change.	2/25/82	Denied IR #35-S
3. SIERRA COLLEGE FACULTY ASSN. v. SIERRA JOINT COMMUNITY COLLEGE DISTRICT	S-CE-488	District refused Association's request to place two items on the agenda.	3/11/82	Denied IR #34
4. AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES LOCAL 1695 v. REGENTS OF U.C.	SF-CE-31-H	Employer interfered with and denied employees' rights.	3/16/82	Withdrawn 5/21/82
5. CALIF. CORRECTIONAL OFFICERS ASSN. v. DEPT. OF PERSONNEL ADMINISTRATION	S-CE-117-S	Unilateral action.	3/19/82	Withdrawn 3/30/82

	Case Name	No.	Allegation	Filed	Disposition
6.	REGENTS OF U.C. v. STATEWIDE UNIVERSITY POLICE ASSN.	SF-CO-1-H	Employer refusal to bargain.	4/7/82	Denied IR #36-H
7.	CSEA v. ALRB	LA-CE-101-S	Unilateral change.	4/13/82	Rejected 4/15/82 -- did not meet Board's filing requirements.
8.	HOWARD NEELY ET AL. v. FREMONT USD/ FREMONT TEACHERS ASSN.	SF-CO-163 SF-CE-612	District planned to discharge employees for failure to pay agency shop fees.	4/26/82	Denied IR #37
9.	STATEWIDE UNIVERSITY POLICE ASSN. v. REGENTS OF U.C.	SF-CE-115-H	University violated bargaining rights, engaged in surface bargaining, took unilateral action and refused to participate in mediation.	4/30/82	Denied IR #38-H
10.	CSEA v. WILLIAMS UNIFIED SCHOOL DISTRICT	S-CE-500	District sought to require an employee to undergo a disciplinary hearing after PERB hearing ordering reinstatement and back pay.	5/5/82	Denied IR #40
11.	CALIF. CORRECTIONAL OFFICERS/DEPT. OF FORESTRY EMPLOYEES ASSN. v. DEPT. PERSONNEL ADMIN. (See also 156 & 157)	S-CE-128-S S-CE-129-S	Refusal to bargain.	5/11/82	Denied IR #44-S

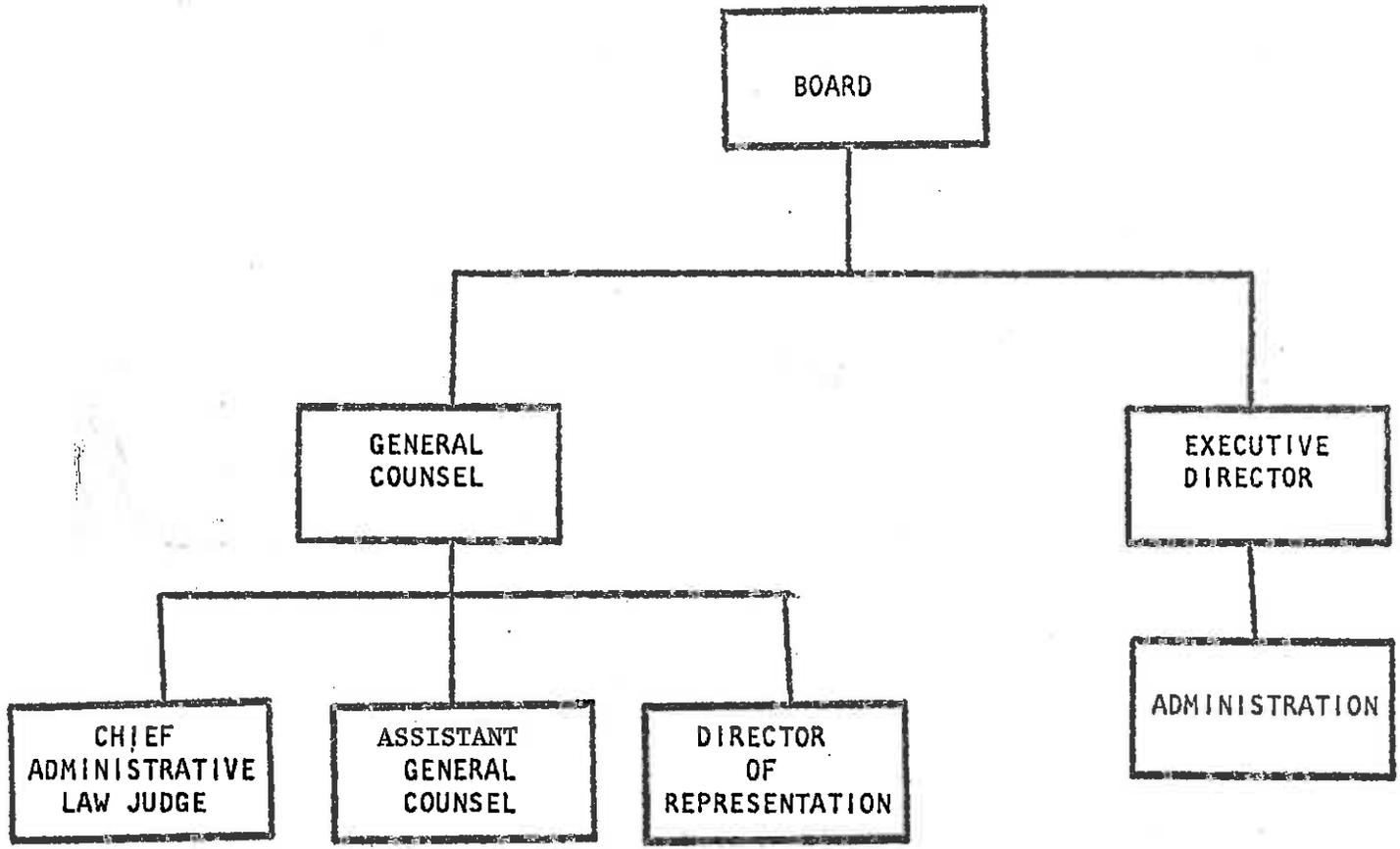
	Case Name	No.	Allegation	Filed	Disposition
12.	ACSA/PECG v. DEPT. OF PERSONNEL ADMINISTRATION	S-CE-127-S	Unilateral change.	5/13/82	Denied IR #39-S
13.	CALIF. CORRECTIONAL OFFICERS ASSN. v. STATE OF CALIF. (Dept. of Corrections)	S-CE-121-S	Employer harassment because of employee's union activity.	5/14/82	Rejected 5/21/82 -- did not meet Board's filing requirements.
14.	CSEA v. DEPT. OF PERSONNEL ADMIN. (See also 153 & 157)	S-CE-132-S	Refusal to negotiate (disciplinary matters).	5/18/82	Denied IR #43-S
15.	CWA PSYCH. TECH. UNION v. DEPT. OF DEVELOPMENTAL SERVICES & MENTAL HEALTH (See also 153 & 156)	S-CE-133-S S-CE-134-S	Refusal to negotiate (disciplinary matters).	5/18/82	Denied IR #42-S
16.	STATEWIDE UNIVERSITY POLICE ASSN. v. REGENTS OF U.C.	SF-CE-115-H S-CE-117-H	Refusal to mediate.	5/21/82	Denied by letter 8/12/82
17.	COALITION OF ASSOCIATIONS AND UNIONS OF STATE EMPLOYEES v. DEPT. OF HEALTH SERVICES	S-CE-138-S	Unilateral change.	5/25/82	Denied IR #41-S

	Case Name	No.	Allegation	Filed	Disposition
18.	CSEA v. DEPT. OF PERSONNEL ADMIN.	LA-CE-104-S	Unilateral change of hours, parking and use of state vehicle.	5/24/82	Rejected 6/9/82 -- did not meet Board's filing requirements.
19.	CALIFORNIA CORRECTIONAL PEACE OFFICERS' ASSN. (CCOA) v. DEPT OF PERSONNEL ADMIN. (DPA)/DEPT. OF CORRECTIONS	S-CE-141-S	Unilateral change of work schedules.	6/15/82	Withdrawn pursuant to settlement 6/23/82
20.	SANTA CRUZ FACULTY ASSN. v. REGENTS OF U.C.	SF-123-H	Refusal to bargain re: changes in health insurance.	6/18/82	Denied IR #45-H 7/27/82
21.	PROFESSIONAL ENGINEERS IN CALIFORNIA GOVERNMENT & ASSN. OF CALIF. STATE ATTORNEYS & HEARING OFFICERS v. DEPT OF PERSONNEL ADMINISTRATION	S-CE-125-S	Refusal to bargain re: contracting out, layoff, discipline procedures, promotions, staffing ratios, out-of-class claims and employee assignments.	6/18/82	Withdrawn 6/28/82
22.	ASSOCIATION OF CALIFORNIA STATE ATTORNEYS & HEARING OFFICERS V. DEPT. PERSONNEL ADMIN.	137-S	Refusal to bargain re: classifications, promotion and assignment considerations, staffing ratios and contracting out.	6/18/82	Withdrawn 6/28/82

	Case Name	No.	Allegation	Filed	Disposition
23.	JOHN F. OKEL v. DEPT. OF PERSONNEL ADMINISTRATION	LA-CE-106-S	Employer took reprisals against employee for union activities.	6/15/82	Rejected 6/22/82 -- did not meet Board's filing requirements.
24.	CSEA v. DEPARTMENT OF PERSONNEL ADMINISTRATION	LA-CE-104-S	Unilateral changes and retaliatory action against union activists.	7/6/82	Rejected 7/14/82 -- did not meet Board's filing requirements.
25.	CFA v. TRUSTEES OF CALIFORNIA STATE UNIVERSITY		Discrimination, coercion, reprisal, interference and restraint.	7/28/82	Denied by letter 8/9/82
26.	PASADENA COMMUNITY COLLEGE PEACE OFFICERS ASSN. v. PASADENA AREA COMMUNITY COLLEGE DISTRICT	LA-CE-1587	Employer threats, discrimination, reprisals, denial of access to grievance procedure and refusal to bargain re: shift assignments.	8/9/82	Denied by letter 9/15/82
27.	SAN JOSE COMMUNITY COLLEGE DISTRICT CH. 90, CTA/NEA v. SAN JOSE COMMUNITY COLLEGE DISTRICT	SF-CE-679	Unilateral changes of work day, ending date of work year and teacher's vacations.	8/31/82	Denied by letter 10/19/82
28.	CSEA v. DEPT. OF GENERAL SERVICES	SF-CE-154-S	Refusal to meet and negotiate; unilateral change in janitor's shift.	8/31/82	Denied by letter 9/8/82
29.	UNION OF AMERICAN PHYSICIANS & DENTISTS v. DEPT. OF CORRECTIONS	LA-CE-110-S	Unilateral change.	9/21/82	Denied by letter 10/15/82

	Case Name	No.	Allegation	Filed	Disposition
30.	CALIF. CORRECTIONAL OFFICERS ASSN. v. DEPT. OF CORRECTIONS	S-CE-159-S	Bad faith bargaining.	10/18/82	Rejected 10/18/82 -- did not meet Board's filing requirements.
31.	CALIF. CORRECTIONAL PEACE OFFICERS ASSN. v. DEPT. OF CORRECTIONS	S-CE-159-S	Refusal to bargain/unilateral change re: hours.	10/28/82	Denied by letter 11/2/82
32.	SUPERVISORY EMPLOYEES UNION v. LOS ANGELES UNIFIED SCHOOL DISTRICT	LA-CE-1670	Refusal to bargain re: wages & terms of employment.	12/13/82	12/13/82 Rejected by GC--did not meet Board's filing requirements.

PUBLIC EMPLOYMENT RELATIONS BOARD



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