

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 around the seal includes "SEAL OF THE STATE OF CALIFORNIA" and "EUREKA".

ANNUAL REPORT

**to the
LEGISLATURE**

1984

**PUBLIC EMPLOYMENT
RELATIONS BOARD**

NINTH ANNUAL REPORT
OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

Members of the Board

Deborah M. Hesse, Chairperson

Nancy Burt

John Jaeger

Marty Morgenstern

Irene Tovar

Dennis Sullivan, General Counsel

Chuck Cole, Executive Director

Jeffrey Sloan, Assistant General Counsel

Janet Caraway, Director of Representation

Fred D'Orazio, Chief Administrative Law Judge

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BOARD OPERATIONS

The Public Employment Relations Board (PERB) 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). These three collective negotiations laws cover approximately 875,000 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 PERB has two principal functions: (1) to prevent and remedy unlawful acts including 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 1984, Deborah Hesse served as Chairperson. Members during this period were Nancy Burt, Marty Morgenstern, John Jaeger, and Irene Tovar. Dennis Sullivan served as General Counsel, and Chuck Cole served as Executive Director.

The agency has 99 authorized positions assigned to headquarters in Sacramento and regional offices in Los Angeles, San Francisco, and Sacramento.

During the reporting period, the Board made significant progress in attaining three goals for 1984:

1. Increasing the effectiveness of its current procedures for resolving disputes by reducing case processing time;
2. Identifying and implementing new, cost-effective methods of accomplishing the purposes of the Acts administered; and
3. Minimizing operating costs.

The Board is confident that the backlog of EERA unfair practice cases, which were delayed so the Board could implement the representation provisions of the three laws, is permanently resolved.

During the reporting period, PERB's very successful advisory committee, composed of representatives of labor, management, and interested citizens, expressed support for PERB's procedures and case processing timelines. The advisory group remains a critical link in PERB's efforts to further improve public sector employer-employee relations in California.

1984 ACCOMPLISHMENTS

Reduction of Case Processing Time

In 1984, the average number of days from date of filing to disposition of a charge was lower than in 1983 for all types of dispositions as indicated:

	<u>1983</u>	<u>1984</u>	<u>Number of Days Reduced in 1984</u>
Withdrawals	76	58	18
Dismissals	94	71	23
Complaints	73	64	9

The 1983 median decision-writing time (by an ALJ) of 110 days has been reduced to 82 days in 1984.

At the Board level, the improvement was dramatic. The average number of days from placement of an unfair practice case on the Board's docket to issuance of a decision declined from 418 days in 1983 to 298 days in 1984, a 120 day or four month improvement.

Considering the average case processing time reduction at all three levels of the procedure, in 1984 the Board has reduced the average time required to issue a final order in an unfair labor practice case by more than five months.

The primary beneficiaries of accelerated case processing are the unions and public employers (i.e. school districts, universities, colleges, and Department of Personnel

Administration). Cases lingering on the Board's docket tend to impede relations between the parties to those cases. Further, to the extent the cases involve important issues, all parties subject to the Act are denied guidance. For these reasons, a five month reduction in the turnaround time for a final decision significantly improves administration of the three public employee relations laws within PERB's jurisdiction.

Health Care Cost Containment Study

Legislative sanction was obtained through Senate Bill 922 (Chapter 1258) of the Statutes of 1983 to expend funds from the PERB budget to commence a study which would communicate cost containment efforts and alternatives to PERB constituents.

Health care has become one of the most frequent causes of negotiating failures. Health care costs have spiraled, absorbing funds that might otherwise be available for wage increases, but the means by which public employers and employee groups might cooperate to contain these costs have been little understood. In 1984, PERB took further steps to fill this information void by completing the first-ever health care cost containment survey of local public employers.

The intent of the 1984 survey was to establish a baseline of information on benefits and health care plan costs and health care cost containment activities in public agencies. At the conclusion of the study this information will be made available to the Legislature, public employers, employee organizations, and interested citizens.

The initial results of the PERB survey of health benefit expenditures by local public employers have been tallied as of this annual report. (The entire compilation of results is contained in a separate document.) The initial results, however, revealed that local government spent an estimated \$2 billion for health care for employees in 1984 at an average cost of \$1,834 per employee.

Other findings include:

- The average cost of traditional fee-for-service health care plans is \$2,022 a year for each employee.
- The average cost under self-funded plans is \$1,664 a year per employee.
- The average cost to employers enrolled in health maintenance organizations (HMO's) is \$1,460 a year per employee.
- Health benefit expenditures are below the statewide average when utilization review and provider contracting were implemented by the employer.
- Health benefit expenditures are lower for employers who implemented preventive health programs and utilized alternative health services.
- Reducing benefits and requiring additional employee contributions appear not to be as effective a method of containing health care costs when compared to others. According to the survey, employers who engaged in these activities had an average annual contribution rate per employee that was higher than the statewide average; i.e., \$1,908 compared to \$1,834.

PERB's first research report is entitled "Preferred Provider Organizations: A Guide for Public Employers and Employee Organizations" (PPO). PPO's were the subject of the first report because PPO development and marketing in

California is accelerating and is viewed by many as a major cost containment strategy. It was clear to PERB that limited information existed from the buyer's perspective on this topic although employers and employee organizations were being asked by major purveyors of health insurance to consider this alternative as a way of reducing health care costs.

In addition to these two reports, a roundtable was held in late November bringing together innovative public health care plan participants from around the state. The discussions focused on self-funding in multi-employer arrangements, through a joint powers authority or employer-employee trust. A full report of the discussion will be available in the spring of 1985.

To further this research effort, PERB is conducting a second questionnaire to public and private employers that will expand the data base, identify trends in developing health care cost containment activities, and evaluate the effectiveness of these activities in containing costs.

Advisory Committee

Originally organized in the winter of 1980 to assist PERB in meeting the mandate of AB 1111, the regulation review statute, the PERB Advisory Committee continued to be actively interested and involved in other labor relations issues. The PERB Advisory Committee consists of over 50 people from throughout California. They represent management and labor

groups, law firms, negotiators, professional consultants, the public, and scholars.

In 1984, PERB searched for creative ways in which its professional staff could cooperate with the parties to promote peaceful dispute resolution and stability in employee relations. Continued emphasis was given to maintaining communication with representatives of employers, employees, and the public through regular meetings, including Board members, with an advisory committee composed of representatives from all sectors. This dialogue led to regulation review in 1984 which has aided PERB in attaining its case processing time reduction goals by such improvements as substitution of less costly investigations for formal hearings in appropriate public notice cases.

The Board has assigned one of its members to attend the advisory committee meeting and report back to the Board itself. The member assigned to the advisory committee or an alternate Board member attended every advisory committee meeting conducted in 1984. The participation of the Board with its advisory committee in this fashion ensures direct communication between the policy makers and its constituents.

New Methods

PERB experimented with a collaborative or team concept to resolve complex, multi-party disputes. In 1984, the San Jose Unified School District was involved in a major dispute with

two employee organizations concerning bankruptcy and a host of related unfair labor practice charges. The combined efforts of three PERB professional employees were instrumental in bringing about an amicable resolution of the dispute. Expensive bankruptcy litigation and formal unfair practice proceedings were thus eliminated and the parties' relationships were restored.

Minimizing Operating Costs

A general objective of PERB during 1984 was the reduction of agency operating costs. By reducing case processing time, developing new means, within the statutory mandates, of preventing and reducing public employee relations disputes, and utilizing procedural awareness gained through the management information system, the agency not only reduced costs to the State, but to constituent parties as well. For example: reducing case processing time has the result of lessening expenditure requirements for all parties involved. Facilitating mutual exploration by employers and employee organizations of means to contain health care costs reduces negotiation friction and, subsequently, the possibility of injunctive relief and unfair practice cases. Subscription fees charged to recipients of PERB publications, such as the representation and unfair practice indices, and the agreements whereby employee organizations reimbursed PERB for fair share election costs under MOU's signed by the SEERA parties also served to reduce PERB operating overhead.

Additionally, PERB adopted a number of measures designed specifically to minimize operating costs. A computerized management information system was implemented to assist managers in managing the workload, identifying operational trouble spots and in determining such things as the need to fill vacant positions. The system has aided the agency in increasing productivity and made it easier for PERB to avoid excess staffing. PERB has not filled every authorized position, generating considerable salary savings.

To hold payroll costs to a minimum in 1984, PERB has taken a number of other steps including the following:

1. PERB uses nonpaid academic interns to assist in case processing and support in the administration of the agency.
2. PERB uses permanent intermittent appointments for election officers in order to ensure that employees are on payroll only when election workload exists.
3. PERB contracts out for services to conduct its elections (the election supervisor and computer ballot counting service) and for mediation services.
4. PERB uses the Career Opportunity Development Program and work-study appointments which result in a reduced cost to PERB to have such employees on staff.
5. When overtime work is necessary, PERB employees have worked for compensating time off rather than for pay.

6. Full implementation of the computerized information system computer has generated substantial savings by supplying information which was formerly manually prepared by PERB employees.

7. Administrative duties were reassigned in 1984 to the lowest civil service level in order to process the administrative work of the agency in the most cost-effective way.

Unfair Practice Pamphlet

Lack of understanding of agency procedures, especially by individuals appearing in propria persona, and the unavailability of a convenient means of locating PERB representation case precedent, have caused party frustration, hearing delays and, in some instances, inadequate briefing to ALJs and the Board. PERB sought to rectify these problems in 1984. A pamphlet explaining the filing and investigative stage of charge processing was issued in October and similar pamphlets covering the function of informal settlement conferences and formal hearings in the unfair practice area and the filing and processing of representation (election and related) petitions are being developed and will be available soon. The "How to File an Unfair Practice Charge" pamphlet has been very successful in reducing the initial time a Board employee must spend explaining filing requirements to a prospective charging party. Also, by stating precisely what is

expected of a charging party, the pamphlet has eliminated numerous mistakes and omissions which otherwise would consume the time of an agency professional employee and delay processing of a charge.

Regulation Review

During 1984 the PERB Advisory Committee, the Board itself and staff were involved in an extensive review of the agency's regulations (found at title 8, part III of the California Administrative Code). At public meetings called by the Board and Advisory Committee meetings, rule change suggestions were introduced and exhaustively discussed. At public meetings conducted late in the year, most regulation language problems were resolved, and the final version was being readied as this annual report was being prepared. The Board is expected to take final action on the proposals early in 1985.

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 employment 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 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 has jurisdiction over all three statutes. When one or both parties wish to change established units, these changes are made in accordance with the Board's 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 PERB. Such a petition is dismissed if filed within 12 months of the date of voluntary recognition by the employer or certification by PERB of the incumbent exclusive representative. Unless it is filed during a window period beginning approximately 120 days prior to the expiration of that agreement, the petition is also dismissed if filed when there is a negotiated agreement in effect.

Elections

One major function of PERB 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 in order for employees to approve (under the EERA) or rescind (under the EERA or SEERA) an organizational security (fair share fee) 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 under all three statutes, 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 helps the Board determine if mediation would be helpful and productive. Once it is determined that an impasse exists, the State Mediation and

Conciliation Service is contacted to assign a mediator. The mediation process has been very successful.

In the event 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 10 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 with PERB 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 an 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 dismisses 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 ALJ. To encourage open discussion and enhance the possibility of settlement, no record is made. If settlement does not occur, either party may request a formal hearing.

At the formal hearing a new ALJ is assigned to hear the case. The ALJ rules on motions, takes sworn testimony and other evidence in order to build a formal record. The ALJ then studies the record, considers the applicable law, and issues a proposed decision.

A proposed ALJ decision applies precedential Board decisions to the facts of a case. In the absence of Board precedent, the ALJ decides the issue(s) by applying other relevant legal principles.

Any party to the proceeding who is dissatisfied with a proposed ALJ decision 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 to take additional evidence. Proposed ALJ decisions that are not appealed are binding only upon the parties to the case.

An important distinction exists between ALJ decisions which become final and decisions of the Board itself. ALJ decisions may not be cited as precedent in other cases before the Board. 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 three public sector collective bargaining Acts provide that the public must be informed about the issues to be negotiated and that the public 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 of 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 litigation responsibilities of the General Counsel include:

- defending final Board unfair practice decisions when aggrieved parties seek review in appellate courts;
- seeking judicial relief when a party refuses to comply with a final Board decision or with a subpoena issued by PERB;
- 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 Statements

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.

Bargaining Agreements

PERB regulations require that employees file, with PERB regional offices, a copy of endorsed agreements or amendments within 60 days of the agreement or amendment. These contracts are maintained on file for research purposes by the Board, the parties, the Legislature, and public. If appropriate, the agency seeks compliance with the regulation.

OPERATIONAL HIGHLIGHTS

1. Unfair Practice Cases

A total of 676 charges (557 under the EERA, 52 under the HEERA, 67 under the SEERA) were filed in calendar year 1984. Of these, 571 were charges against employers (CE) and 105 were charges against employee organizations (CO).

Regional staff, acting on behalf of the Board and under the direction of the General Counsel, issued 329 complaints under all Acts and either dismissed or permitted the withdrawal of 610 total charges (see Appendix A-15).

Administrative law judges issued 73 proposed decisions, conducted 322 informal settlement conferences and held 79 hearings. Thirty-two of the decisions issued were appealed to the Board and 41 became final (see Appendix A-16).

2. Representation Cases

EERA

Thirty-eight requests/interventions for recognition and 85 petitions for unit modifications were received and processed (see Appendix A-5).

SEERA

The representation caseload for SEERA consisted of 51 cases of which 28 were unit modifications (see Appendix A-6).

HEERA

The representation caseload for HEERA consisted of 20 cases (see Appendix A-7).

3. Elections

EERA

PERB conducted 78 elections covering approximately 22,899 employees. A listing of the elections conducted in 1984 is found in the Appendices, page A-8.

PERB conducted 18 elections to determine which employee organization, if any, would represent the employees of a particular negotiating unit. Of these, 14 elections resulted in the selection of an exclusive representative and 4 in the selection of no representation. Two unit modification elections were held to determine if employees should be added to the unit.

In addition, the Board conducted 29 decertification elections. Of these, 15 resulted in the retention of the incumbent organization, 2 resulted in the selection of no representation, and 12 resulted in the selection of another employee organization as the exclusive representative.

As provided by statute, 25 public school employers requested the Board to conduct organizational security implementation elections. Twenty-two of these elections resulted in ratification of the organizational security provisions, and three resulted in rejection of the organizational security provisions. Four organizational security rescission elections were also held of which two resulted in organizational security provisions being rescinded and two being retained.

SEERA

PERB conducted 2 decertification elections covering approximately 9756 employees and 7 organizational security elections covering approximately 66,902 employees (see Appendix A-8). One decertification election resulted in the retention of the incumbent organization and the other resulted in the selection of another employee organization as the exclusive representative. Approximately 31,151 employees voted in 7 organizational security elections resulting in a vote for continuance of the fair share fee in 6 of the 7 units.

HEERA

One decertification election was conducted in the University of California system covering approximately 192 employees. This election resulted in the selection of "no representation" (see Appendix A-10).

4. Impasse Cases

EERA

PERB received a total of 479 mediation requests. Of these approximately 74 proceeded to factfinding (see Appendix A-5).

SEERA

PERB received a total of four mediation requests. SEERA does not provide for factfinding (see Appendix A-6).

HEERA

PERB received a total of six mediation requests and one proceeded to factfinding (see Appendix A-7).

5. Compliance Cases - EERA - SEERA - HEERA combined.

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 37 new compliance cases in 1984 (see Appendix A-4).

6. Cases at the Board Level

During 1984 the Board itself closed 168 cases which had been appealed to the Board. Board decisions and orders were issued in 145 cases. Of these, 72 were final decisions in unfair practice cases and 9 were representation decisions. The remainder of the decisions and orders covered requests for reconsideration, judicial review, injunctive relief, administrative appeals, and public notice decisions. Twenty-three cases were withdrawn after voluntary settlements at the Board level.

7. Injunctive Relief Activities

The Public Employment Relations Board continues to receive and expeditiously consider requests for injunctive relief. In 1984 the Board itself received 25 separate requests for injunctive relief. Of these requests 20 were withdrawn or denied. PERB granted the requests for injunctive relief in the remaining five cases. Of these five, two proceeded successfully in court while the remaining three cases were resolved without subsequent reliance on court action (see Appendix A-18).

8. Appellate Cases

While 20 new cases were filed in either the Superior, Appellate, or Supreme Courts, the record of PERB at the Appellate Court level remains strongly in favor of Board holdings. Decisions which were handed down by the Appellate and Supreme Courts in 1984 found the agency being upheld in summary disposition of the petitions in all but one published precedential decision (see Litigation Summary page 63).

LEGISLATIVE ENACTMENTS

AB 1245 Chapter 521 Effective date: January 1, 1985
(Elder)

Specifically includes, within the scope of collective bargaining representation, the subject of employer payment to the State Teachers' Retirement System (STRS) of member contributions.

AB 1336 Chapter 89 Effective date: January 1, 1985
(Floyd)

Makes technical nonsubstantive changes to existing law containing various provisions relating to firefighters of the state and local public agencies.

AB 2955 Chapter 675 Effective date: August 18, 1984
(Stirling, L.)

Authorizes the Department of Personnel Administration to adopt emergency regulations to implement employee benefits for State officers and employees excluded from, or otherwise not subject to, collective bargaining.

AB 3100 Chapter 1657 Effective date: January 1, 1985
(Isenberg)

Prohibits PERB from releasing the home addresses and phone numbers of State employees performing law enforcement related

functions to any bona fide employee organization. Provides that the home addresses and the home telephone numbers of State employees shall not be public records open to public inspection. Release for collective bargaining purposes is pursuant to PERB regulation authority only.

SB 645 Chapter 1759 Effective date: January 1, 1985
(Dills)

Appropriates funds to PERB for purposes of implementing legislative mandates for research programs.

SB 1302 Chapter 1454 Effective date: January 1, 1985
(Dills)

Prohibits the Governor and the recognized employee organization from meeting and conferring or reaching agreement on any provision which would reduce health benefit coverage for retired State employees.

SB 1338 Chapter 832 Effective date: January 1, 1985
(Deddeh)

Provides that in districts which employ 20 or more supervisory peace officer employees, a negotiating unit of supervisory employees shall be appropriate if it includes all supervisory nonpeace officer employees.

SB 1747 Chapter 733 Effective date: January 1, 1985
(Montoya)

Includes intermittent athletic inspectors who are employees of the State Athletic Commission in an exemption from existing law.

SB 1828 Chapter 193 Effective date: January 1, 1985
(Keene)

Maintenance of the code by legislative counsel amending section 3543.4 of the Government Code to correct technical, nonsubstantive errors.

CASE DIGEST

Case summaries in the 1984 Annual Report are organized to coincide with the newly published PERB Decision Indices.

REPRESENTATION

EERA

A. Agency Fee

1. Charles H. Allen, et al., and California School Employees Association, Chapter 504, and Pleasant Valley Elementary School District (2/28/84) PERB Decision No. 380

The Board affirmed the regional director's order staying service-fee revocation election pending final outcome of unfair practice case. The Board found probable cause to believe that employees cannot exercise free choice in election because district's absolute refusal to comply with contract obligation to terminate employees who refuse to pay fee is likely to affect vote of those who negotiated fee provision and those who have authorized fee payment through payroll deductions.

B. Contract Bar

1. Maggie L. Brown and United Public Employees, Local 390/400, Service Employees International Union and San Francisco Unified School District (12/31/84) PERB Decision No. 476

The majority found that the decertification petition was barred by the existence of a contract extension.

C. Decertification

1. Grenada Elementary School District and Grenada Teachers Association, CTA/NEA and Elizabeth Young Dealey, et al. (6/29/84) PERB Decision No. 387

The Board affirmed the regional director's order staying the decertification election pending

resolution of charges alleging that the district had refused to negotiate in good faith.

The Board denied the appeal that the conduct alleged in the pending charges was in no way related to petitioners' desire to decertify the exclusive representative. The Board held that the proper focus of the regional office inquiry is not the reason the petition was filed, but whether the alleged unlawful conduct would so affect the election process as to prevent the employees from exercising free choice.

D. Employee, Definition of

1. Modesto City Schools and Modesto Teachers Association, CTA/NEA (5/15/84) PERB Decision No. 384

Following the test articulated in New Haven USD (3/22/77) EERB Decision No. 14, the Board determined that the psychologist-intern's employment interests predominate over her educational concerns and affirmed the hearing officer's determination that she is an employee within the meaning of EERA subsection 3540.1(j).

The Board summarily affirmed the hearing officer's determination that the position of counselor-assistant to the principal is neither managerial nor supervisory within the meaning of EERA.

E. Employee Organizations

1. Los Angeles Unified School District and Supervisory Employees Union, Local 347, SEIU, AFL/CIO; Lynwood Unified School District and Supervisory Employees Union, Local 347, SEIU, AFL/CIO (10/24/84) PERB Decision No. 424

SEIU Local 347 is not "the same employee organization" as SEIU, Local 99 and, therefore, is not precluded from representing supervisors who supervise employees represented by Local 99.

The Board affirmed the analysis and test stated in Sacramento City Unified School District (3/25/80) PERB Decision No. 122, and the critical factors applied in Fairfield-Suisun Unified School District (3/25/80) PERB Decision No. 121.

Evidence of actual domination is required to show that two locals are alter egos of the international. "Potential for domination" contained in international constitutions and bylaws may be a factor in determining whether actual domination exists.

An unpublished Court of Appeal decision regarding the same issue and the same locals is not res judicata of the instant case and does not supersede PERB's contrary construction.

Los Angeles Community College District (12/16/81) PERB Decision No. 123a is not determinative. That decision was limited to the facts of that case at the date of issuance, which have changed significantly since that time.

2. Sherman Jones v. Los Angeles County Building and Construction Trades Council (11/27/84) PERB Decision No. 439

Summary affirmance of regional attorney's dismissal of charge on grounds that charge was not timely and was filed against an organization that was not an exclusive representative and thus not a proper party.

F. Supervisors

1. Antioch Unified School District and California School Employees Association and its Antioch Chapter #85 (10/12/84) PERB Decision No. 415

The Board adopted administrative determination that Food Service Cook Managers are supervisory, and granted the district's request to delete the positions from the unit.

The district's petition was not invalid for failure to amend to conform to PERB's revised regulations where CSEA clearly knew and understood that the new rule applied.

The district's motivation for seeking the unit modification was not relevant to a determination of supervisory status, absent evidence of fraud or illegality.

HEERA

A. Decertification

1. Regents of the University of California and Leroy Pereira, et al. and Statewide University Police Association (4/17/84) PERB Decision No. 381-H

The Board affirmed the regional director's order staying the decertification election pending the resolution of unfair practice charges. The Board rejected the petitioners' argument that they were not motivated to file the decertification petition by the University's alleged unfair practices, finding that the motive of individual petitioners is not determinative. The regional director's charge is to evaluate whether alleged unlawful conduct would so affect the election process as to prevent employees from exercising free choice in the election.

SEERA

A. Decertification

1. California State Employees Association, SEIU, AFL-CIO and International Union of Operating Engineers, State of California Locals 3, 12, 39 and 501, AFL-CIO (7/6/84) PERB Decision No. 390-S

On appeal, the Board adopted with comments an administrative determination denying CSEA's request to place a decertification petition filed by the International Union of Operating Engineers in abeyance pending completion of the AFL-CIO Article XX "no raiding" procedures.

The regional representative found that PERB has a statutory duty to process decertification petitions and hold elections when appropriate and, in contrast to the NLRB, has never promulgated any rule or policy permitting or requiring it to stay such petitions pending completion of the AFL-CIO procedures. Therefore, since the petitioner objected to holding the petition in abeyance, the Board refused to do so.

Moreover, the Board noted that much time had passed, more delay could be expected as the Article XX procedures have a potentially time-consuming appeals process, and the petition raised a QCR at a time when

the parties were in the midst of negotiations for other units. Thus, the parties would not know how to proceed with the negotiations for Unit 12. Under these circumstances, the Board's responsibility to process the petition was found to outweigh any possible savings in time and expense that might be gained from holding the petition in abeyance. The Board also determined that each such request would be dealt with on a case-by-case basis.

PUBLIC NOTICE

EERA

1. Howard O. Watts v. Los Angeles Community College District
(5/22/84) PERB Decision No. 385

Although the Board agent, pursuant to former PERB rules, should have dismissed the charge before serving it on the respondent, such conduct does not transform a complaint otherwise failing to state a prima facie violation into one that does. The Board affirmed the Board agent's dismissal of the complaint.

2. Howard O. Watts v. Los Angeles Community College District
(6/29/84) PERB Decision No. 388

Complainant, member of the public, was not permitted to respond to initial collective bargaining proposals because of his violation of district's rules of decorum, incorporated in its public notice procedure.

The Board dismissed the complaint finding that the district acted in accordance with its rule of decorum. It is presumed that an official duty of the school board had been regularly performed. Parliamentary rules are procedural only, and their strict observance is not mandatory.

3. Howard O. Watts v. Los Angeles Unified School District
(8/16/84) PERB Decision No. 397

Subsection 3547(a) requires an employer to sunshine proposals at an open meeting. Subsection 3547(a) does not require an employer to give a verbal description of proposals.

The mere allegation that the method of sunshining proposals of one bargaining unit differs from that undertaken with respect to another bargaining unit does not state a prima facie case in the absence of some evidence that a particular method was, itself, legally deficient.

4. Howard O. Watts v. Los Angeles Unified School District
(9/13/84) PERB Decision No. 405

The district violated section 3547(a) by failing to place an initial proposal on the agenda of a meeting of the school board.

The district did not violate section 3547(b) by restricting speaking time at a public meeting to six minutes.

5. Howard O. Watts v. Los Angeles Community College District
(10/4/84) PERB Decision No. 411

Even though a Board agent has determined that a public notice complaint states a prima facie violation of the EERA, a hearing officer may later, on the respondent's motion, dismiss the charge for failing to state a prima facie violation.

An initial proposal stating that the name of an insurance carrier and the amount of coverage would be "reserved to the District" was sufficiently well developed to satisfy the requirements of the Act. Fein v. Palo Alto Unified School District (12/2/81) PERB Decision No. 184.

6. Howard O. Watts v. Los Angeles Community College District
(12/7/84) PERB Decision No. 454

Public notice case dismissed where wage increase was unilaterally granted by employer. Request for assistance was denied. (See Los Angeles USD/CSU (8/16/84) PERB Decision No. 396-H.)

7. Howard O. Watts v. Los Angeles Community College District
(12/7/84) PERB Decision No. 455

Employer and union allowed a "reasonable time" to elapse after initial proposals were made and prior to commencement of negotiations. Citizen given adequate time to make public comment on proposals. Request for assistance denied. (See Los Angeles USD/CSU (8/16/84) PERB Decision No. 396-H.)

HEERA

1. Howard O. Watts v. Los Angeles Unified School District, California State University, United Professors of California (8/16/84) PERB Decision No. 396-H

The Board denied appeals of denial of request for assistance in connection with public notice complaints.

Watts was properly provided technical assistance mandated by Regulation 32920 and denied legal assistance under Regulation 32163.

The Board's discretion to provide legal assistance to a party is properly exercised with the utmost restraint, on a case-by-case basis, considering the abilities and experience of the party, the difficulty and complexity of the case, and the public interest in resolution of the issues involved.

2. Howard O. Watts v. California State University (12/7/84) PERB Decision No. 453-H

University need not have meeting in both Southern and Northern California. Request for assistance was denied. (See Los Angeles USD/CSU (8/16/84) PERB Decision No. 396-H.)

3. Howard O. Watts v. California State University (12/10/84) PERB Decision No. 456-H

University need not have meeting in both Southern and Northern California; University trustees did not illegally delegate negotiations to a committee of staff.

4. Howard O. Watts v. California State University (12/10/84) PERB Decision No. 457-H

University need not have meeting in both Southern and Northern California; University trustees did not illegally delegate negotiations to a committee of staff.

5. Howard O. Watts v. California State University (12/12/84) PERB Decision No. 458-H

University trustees did not illegally delegate negotiations to a committee of staff.

Initial proposals by parties to negotiations may be made public by submission of written proposals without oral presentation to the public.

Request for assistance denied. (See Los Angeles Unified School District and California State University (8/16/84) PERB Decision No. 396-H.)

6. Howard O. Watts v. California State University (12/17/84) PERB Decision No. 468-H

The Board affirmed the executive director's denial of Watts' request for an extension of time in which to file appeals of dismissals of certain complaints. The Board rejected both the reasons given by Watts (i.e., workload and physical infirmity) as insufficient to constitute the "good cause" required for an extension of time.

The Board weighed the nature of the reasons asserted against the length of the delay and the possible prejudice to the opposing party and stated that, in general, a party's request for an extension should be based on circumstances that are unanticipated or beyond the party's control. PERB found that Watts' physical problems were neither unanticipated nor insuperable and that his workload was entirely under his personal control.

7. Howard O. Watts v. California State University (12/31/84) PERB Decision No. 477-H

Watts' charges centered primarily on three issues: (1) whether the CSU board of trustees could legally delegate public notice responsibilities to a Committee on Collective Bargaining; (2) whether EERA requires employee organizations to present their initial proposals in person; and (3) whether certain conduct of the respondent and its agents violated the Open Meeting Act.

The Board agreed that the delegation of responsibility to the Committee on Collective Bargaining was proper, that the Act did not require in-person presentation of initial proposals and that PERB does not have jurisdiction to enforce the Open Meeting Act.

8. Howard O. Watts v. Union of American Physicians & Dentists (12/31/84) PERB Decision No. 478-H

The Board affirmed the dismissal of Watts' public notice complaint alleging that the UAPD violated the EERA by not presenting its initial proposal in person and also denied Watts' request for assistance.

The Board agreed that the EERA does not require in-person presentation of initial proposals.

ADMINISTRATIVE APPEALS

EERA

A. Unilateral Change

1. Modesto Teachers Association, CTA/NEA v. Modesto City Schools and High School District (10/12/84) PERB Decision No. 414 and PERB Order No. Ad-143

See Unfair Practice Cases, unilateral change, PERB Decision No. 414.

HEERA

A. Deferral to Arbitration

1. American Federation of State, County and Municipal Employees, Local 1650 v. Regents of the University of California (San Francisco) (12/15/84) PERB Order No. Ad-139-H

The Board held that the policy of deferral to arbitration requires the Board to defer only when binding arbitration has been provided for in a collectively-negotiated agreement between the parties. Thus, the existence of an arbitration provision in the University of California's Staff Personnel Manual does not require the Board to defer its jurisdiction.

SEERA

A. Exceptions

1. William M. Heyburn v. State of California (Franchise Tax Board) (11/16/84) PERB Order No. Ad-144-S

The Board denied request to extend time to file exceptions to a proposed decision until issuance of an appeal before the Workers Compensation Appeals Board (WCAB) where basis for proposed decision was unlikely to be affected by any testimony presented in the WCAB forum.

UNFAIR PRACTICE

EERA

A. Agency Fee

1. Frances Chapman et al. v. Milpitas (12/13/84) PERB Decision No. 462

Only an employee organization is a proper respondent where a charge alleges unlawful expenditure of agency fees.

2. Donna Austin et al. v. San Jose Unified School District (12/13/84) PERB Decision No. 463

Only an employee organization is a proper respondent where a charge alleges unlawful expenditure of agency fees.

B. Contract Duration

1. California School Employees Association and its San Benito Chapter #173 v. San Benito Joint Union High School District (9/13/84) PERB Decision No. 406

The Board dismissed the union's charge that the district engaged in bad faith bargaining. The Board found that the district's proposal did not violate provision which requires that negotiated agreements not exceed three years in duration.

C. Contract Enforcement/Interpretation

1. Fresno County Schools Office of Education Association v. Fresno County Department of Education (9/17/84) PERB Decision No. 409

The parties' 1979-81 collective bargaining agreement required teachers to work "seven (7) hours and fifteen (15) minutes, including a duty free lunch period of thirty (30) minutes." Teachers at one facility regularly were given a seventy (70) minute lunch period until fall 1981, when their lunch period was reduced to 40 minutes.

Charge dismissed. Applying the holding of Marysville, PERB Decision No. 314 (5/27/83), the Board ruled that the teachers were guaranteed only a minimum of

30 minutes per day. Employer's decision to reduce the lunch break at this site was in conformance with the contract.

D. Credibility

1. Ravenswood Teachers Association, CTA/NEA v. Ravenswood City School District (12/28/84) PERB Decision No. 469

The majority affirmed that the district acted unlawfully when its agent threatened to initiate a civil action to recover an alleged salary overpayment against an employee if she continued to pursue her grievance to arbitration. The Board deferred to the ALJ's credibility determinations and agreed with the ALJ's conclusion that the comments of the district's agent could reasonably have been viewed by the employee as threatening.

E. Deferral to Arbitration

1. California School Employees Association and its Chapter #620 v. Conejo Valley Unified School District (2/7/84) PERB Decision No. 376

The Board affirmed the dismissal of a charge filed by the union on the grounds that: (1) the validity of the charge depends on the correct interpretation of the parties' negotiated agreement; and (2) the negotiated agreement provides for binding arbitration. So long as the contract interpretation espoused by the employer is arguably the correct one and would excuse the employer's conduct, the EERA requires deferral to arbitration.

F. Discrimination

1. California School Employees Association and its Placer Hills Chapter #636 v. Placer Hills Union School District (2/14/84) PERB Decision No. 377

The Board affirmed the ALJ's determination that the district did not discriminate against an employee because of his testimonial participation in a prior unfair practice proceeding. The Board found no evidentiary support for contention that the employee was harassed by the district's imposition of the rule requiring written acknowledgment of documents. While

application of the rule may have been excessive and ill-advised, the Board found no connection between that conduct and the employee's participation in a prior Board proceeding.

The Board reversed the ALJ's conclusion that the district unlawfully imposed the acknowledgment rule. The Board found the rule to bear no logical or reasonable relationship to negotiable matters despite the fact that failure to comply with the rule would result in disciplinary action. However, the Board did conclude that, in this case, because the employee was uncertain as to the significance attached to his signature and believed that his response would be reviewed by his superiors in conjunction with promotions, evaluations or discipline, he was unlawfully denied counsel of his union representative when he was asked to supply immediate, written response to material placed in his personnel file.

2. Inglewood Teachers Association and Rosebud Joyner v. Inglewood Unified School District (8/28/84) PERB Decision No. 401

Please see Inglewood case summary at page 52.

3. Charter Oak Educators Association, CTA/NEA, and Elizabeth Nixon-Dillon v. Charter Oak Educators Association (9/6/84) PERB Decision No. 404

The Board held that a prima facie case of unlawful discrimination is not stated merely by showing that adverse personnel action was taken after an employee engaged in protected activity. The sequence in time of those two events, without any other proof, was insufficient to show unlawful motivation.

4. Victor Wightman v. Los Angeles Unified School District (10/4/84) PERB Decision No. 412

The Board affirmed a regional attorney's dismissal of a charge filed against Los Angeles Unified School District. Charging party had alleged that he was the victim of conspiracy perpetrated by four Los Angeles Unified School District employees. Regional attorney properly found that charge did not state prima facie case.

5. Service Employees International Union, Local 22, AFL-CIO v. Sacramento City Unified School District (10/19/84) PERB Decision No. 421

Summary affirmance of a regional attorney's dismissal of a charge alleging the employer discriminated against charging party when it took adverse action against her. Regional attorney found no nexus between protected activity and adverse action.

6. Victor Wightman v. Los Angeles Unified School District (10/26/84) PERB Decision No. 425

Charging party alleged various "gentlemen" of the Los Angeles Unified School District had engaged in several actions perceived by charging party to be violations of EERA (including illegibly writing of name and impersonating postmen). Regional attorney's letter of dismissal properly found charging party had not stated any facts that, even if true, would be considered a violation of EERA. Summary affirmance of dismissals by Board.

7. Victor Wightman v. Los Angeles Unified School District (10/26/84) PERB Decision No. 426

Charging party alleged Los Angeles Unified School District violated EERA because of Superintendent's "incompetence" in not preventing charging party's dismissal prior to his being given a Skelly hearing.

The Board held that charging party failed to allege that the Superintendent acted in a discriminatory manner towards charging party. Even if Superintendent had knowledge of any protected activity by charging party, there was no allegation of disparate treatment. Charge dismissed.

8. James E. Caldwell v. Lake Elsinore Union School District (11/29/84) PERB Decision No. 441

PERB summarily affirmed the dismissal of a charge alleging a discriminatory/retaliatory denial of mileage reimbursement for failure to state a prima facie case. The charging party had filed a grievance based on the same conduct and, pursuant to the parties' negotiated grievance procedure, had reached a mediated settlement. The contract contained provisions covering both the mileage claim and the claim of discrimination.

9. Saugus Teachers Association, CTA/NEA v. Saugus Union School District (11/29/84) PERB Decision No. 443

Summary affirmance of regional attorney's dismissal of charge alleging employer violated EERA by not properly crediting charging party with seniority, resulting in lower pay than she claimed. Regional attorney dismissed because there was no allegation of a change in past practice. In addition, the charge was not timely filed.

10. Beverly Linn v. San Francisco Unified School District (11/29/84) PERB Decision No. 445

Summary affirmance of regional attorney's dismissal of charge that employer discriminated against charging party when it transferred her pursuant to the collective bargaining agreement. Nor, he found, did employer engage in any conduct that could violate Government Code section 3543.5(b) or (c).

11. Joseph G. Buller v. Los Angeles Unified School District (12/3/84) PERB Decision No. 448

Partial dismissal affirmed where complaint already issued encompassed those portions of charge stating prima facie case.

12. Gust Siamis v. Los Angeles Unified School District (12/18/84) PERB Decision No. 464

Summary affirmance of an ALJ's dismissal of a charge alleging the employer discriminated against charging party when it took adverse action against him. The ALJ properly granted the respondent's motion to dismiss the charge because of charging party's failure to prosecute the case.

G. Domination and Interference

1. Clovis Unified Teachers Association, CTA/NEA v. Clovis Unified School District (7/2/84) PERB Decision No. 389

The Board held that district failed to maintain strict neutrality. Santa Monica Community College District (9/21/79) PERB Decision No. 103. During pending QCR, district met and conferred exclusively with Faculty Senate, provided Faculty Senate with financial assistance and support, and made express statements favoring Faculty Senate.

The Board found that district eliminated a required Saturday workday inconsistent with past practice during the period prior to the election. San Ramon Valley Unified School District (11/20/79) PERB Decision No. 111. The Board found no violation in district's continuation of a two percent salary increase which merely implemented a previous plan and was justified by factors other than the pendency of the election.

The Board held that district warned an association organizer about his union activities.

The Board dismissed allegation that interviews of 12 teachers constituted unlawful interrogation. Totality of circumstances was not so threatening or coercive as to interfere with employee rights.

The Board held that totality of circumstances including above violations and a captive audience speech within 24 hours of the election, had a probable impact on employees' vote sufficient to set aside the election. Jefferson Elementary School District (6/10/81) PERB Decision No. 164.

H. Dues Deduction

1. Ann M. Halligan et al. v. Fremont Unified School District (11/21/84) PERB Decision Nos. 435 and 436

Summary affirmance of a regional attorney's dismissal of a charge that retroactive application of an organizational security clause was a violation of EERA.

2. Craig Richter et al. v. Capistrano Unified School District (11/21/84) PERB Decision No. 437

Summary affirmance of a regional attorney's dismissal of a charge that automatic deduction of dues under an agency fee clause violated EERA.

I. Duty of Fair Representation

1. Donald Sponza v. Service Employees International Union, Local 99, AFL-CIO (8/31/84) PERB Decision No. 402

The Board affirmed the dismissal of a charge alleging that a union breached its duty of fair representation by refusing to represent the charging party in a

grievance and an administrative review. There was no evidence alleged to demonstrate arbitrary, discriminatory, or bad faith conduct on the part of the union.

2. Linda Alexander, et al. v. Fontana Unified School District (10/16/84) PERB Decision No. 416

The Board affirmed a regional attorney's dismissal of an unfair practice charge alleging that an employee organization breached its duty of fair representation by preventing nonmembers from voting in contract ratification elections. Under El Centro Elementary School District (8/11/82) PERB Decision No. 232, an employee organization must allow nonmembers to have informal input into the negotiation process but is not required to permit them to vote in formal contract ratification elections. In this case, there was no evidence alleged that nonmembers were denied informal access to the negotiation process.

3. Elizabeth DeFrates v. Mount Diablo Education Association (10/24/84) PERB Decision No. 422

The Board found no violation of the union's duty of fair representation where the union negotiated a new contract which lowered the seniority ranking of certain employees as compared with the previous contract. The Board found that the union had a fair and rational purpose in negotiating a new method of calculating seniority because the old method led to inconsistent results for employees in identical circumstances.

4. Gary Ciaffoni, et al. v. California School Employees Association (11/6/84) PERB Decision No. 427

The Board summarily affirmed the dismissal of charges of a breach of duty of fair representation. Charging parties alleged no errors of law or fact, nor presented any newly discovered evidence.

5. Charlene Fanning v. Sacramento City Teachers Association (11/6/84) PERB Decision No. 428

Charging parties received less pay for working same number of days as another group of teachers. The association refused to grieve the matter on the

grounds that the pay differential was negotiated and that the higher paid positions were phased out, leaving only a small group who were grandfathered in.

Association was under no obligation either to arbitrate or negotiate for the benefit of charging parties as long as its decision was not arbitrary, discriminatory or made in bad faith. Here, two-tier payment system arose out of negotiations when the association agreed to help ameliorate the impact of the employer's decision to eliminate the higher paid positions. Thus, the two-tier system was not the result of an invidious classification scheme, and a prima facie showing was not made.

6. James C. Bramell v. San Francisco Classroom Teachers Association, CTA/NEA (11/13/84) PERB Decision No. 430

The Board reversed the regional attorney's dismissal of charge filed by an employee whom the association represented at the first step in grieving dismissal from an athletic coaching job. When this step was unsuccessful, employee requested the association's assistance at step two. The association agreed to help, and said it would seek an extension of time from the district, since only four days remained to file. Nevertheless, the association did not seek the extension. Six weeks later, the employee received a letter from the association stating that the grievance would be dropped because it lacked merit. The employee strenuously objected to the association. A few days later, the association wrote to the district complaining that the contractual hiring procedures had been violated when the district hired someone to fill the vacant coaching position. It did not, however, ask the district to reverse its hiring action, nor was a grievance filed.

7. Joseph Gordon Buller v. United Teachers of Los Angeles (11/21/84) PERB Decision No. 438

Summary affirmance of regional attorney's dismissal of charge that association breached its duty of fair representation to charging party when it failed to take his grievance to arbitration and when it failed to defend him adequately at meetings to protest the notice of unsatisfactory performance received by charging party.

8. William E. Harmening v. California School Employees Association, Chapter 318 (11/27/84) PERB Decision No. 442

Summary affirmance of dismissal by regional attorney of charge that the association violated EERA by violating the duty to fairly represent charging party. The latter was recalled from his position as chapter president at a meeting during which he claims there were numerous procedural irregularities. Regional attorney dismissed on the grounds that PERB will not become involved in internal union affairs absent specific allegations of conduct that concurrently violates EERA.

9. Beverly Linn v. San Francisco Classroom Teachers Association, CTA/NEA (11/29/84) PERB Decision No. 444

Summary affirmance of regional attorney's dismissal of charge that association breached its duty of fair representation by negotiating a transfer provision in the collective bargaining agreement that was detrimental to charging party. Regional attorney found no allegation that would violate the duty of fair representation standard set out in Redlands PERB Decision No. 72 or Rocklin PERB Decision No. 124.

J. Employee, Definition of

1. United Teaching Profession/Goleta, CTA/NEA v. Goleta Union School District (8/1/84) PERB Decision No. 391

The Board held that the school employer violated the EERA by transferring work from the certificated employees unit without first negotiating with the exclusive representative of that unit. By assigning the work to other employees outside the unit, one unit employee lost the opportunity to increase his work time from part-time to full-time and the collective strength of the unit was diminished.

2. San Leandro Schools Retiree Action Association v. San Leandro Unified School District (12/6/84) PERB Decision No. 450

The Board dismissed the unfair practice charge filed by the association. Because the association is not an employee organization as defined by EERA and because all the members were retirees and not current employees, the Board found the charging party lacked standing to file a charge against the district.

K. Extension of Time

1. Howard O. Watts v. Los Angeles Unified School District and Community College District (9/17/84) PERB Decision No. 408

Complainant filed a request for an extension of time in four different cases. The request was denied and complainant filed an appeal.

Appeal was dismissed. A request for an extension of time to file a reply to a response after an initial request for reconsideration is not necessary because any such reply is permitted only at the discretion of the Board.

In other cases where a request for an extension of time is appropriate, the request must contain a statement of "good cause" pursuant to PERB Regulation 32132.

L. Extraordinary Circumstances

1. Leo Francis Smyth v. Los Angeles County Superintendent of Schools (10/9/84) PERB Decision No. 413

The daughter of deceased charging party filed an untimely appeal of the dismissal of the charge, claiming that her father's death, the day after the final date to appeal, constitutes "extraordinary circumstances" to excuse the late filing under regulation 32136.

Extraordinary circumstances must occur prior to the final filing date to excuse a late filing. Here, the death occurred the day following the final filing date and does not constitute extraordinary circumstances.

Moreover, the charge was properly dismissed for failure to state a prima facie case.

M. Free Speech

1. Escondido Elementary Educators Association, CTA/NEA v. Escondido Union School District (12/31/84) PERB Decision No. 475

The chairperson of the association's bargaining team addressed the school board at a public meeting, regarding the subject of bargaining. The president of

the board interrupted the speaker and warned her not to bargain in public, but stated she was not denying the speaker the right to give input to the board. The association's speaker then sat down.

The district did not prohibit the association from addressing the school board; however, the speaker chose not to continue. Thus, the association failed to state a prima facie violation of EERA.

N. Grievance Procedure

1. Los Angeles Unified School District Peace Officers Association v. Los Angeles Unified School District (11/28/84) PERB Decision No. 440

The regional attorney's dismissal was affirmed. Where the alleged violation occurred after the expiration of the collective bargaining agreement, and where the terms of the contract indicate the parties intended for the duty to arbitrate to terminate upon expiration of the contract, there can be no basis for a claim that the district violated the EERA by refusing to submit to arbitration.

O. Interference

1. Victor Wightman v. Los Angeles Unified School District (12/31/84) PERB Decision No. 473

Charging Party, a bus driver with LAUSD, filed ten separate charges regarding district conduct over a six-month period which culminated in his dismissal. All were dismissed by a regional attorney. After treating three of these charges separately, the Board consolidated the remaining seven.

Six of the dismissals were affirmed. However, one charge, which alleged that a district official threatened to dismiss Wightman if he pursued a grievance against the district, stated a prima facie case and was remanded for hearing.

P. Management Prerogative

1. Davis Teachers Association v. Davis Joint Unified School District (8/2/84) PERB Decision No. 393

The Board resolved a dispute between the Davis Joint Unified School District and the teachers' association

regarding the negotiability of several contract proposals. Most importantly, the Board held that a proposal to limit the employee's "workload" is within the scope of negotiations. However, proposals seeking to limit the right of the district to assign added duties to certain teachers and requiring the district to secure an agreement from universities supplying trainee-teachers to pay a stipend to district teachers, were found nonnegotiable.

Q. Negotiation

1. Beaumont Teachers Association, CTA/NEA v. Beaumont Unified School District (11/9/84) PERB Decision No. 429

The Board reversed the regional attorney's dismissal of charges alleging that certain conduct in bargaining was part of a course of conduct evidencing bad faith. The Board found, however, that a charge of regressive bargaining was properly dismissed since there was no evidence to indicate that bargaining had been regressive.

The Board also upheld the ALJ's refusal to allow amendment of the complaint to include a charge of reprisal against three bargaining unit members, finding that the teachers were discharged because they had not signified a wish to be employed the next year, rather than for engaging in protected activity.

R. Release Time

1. Gilroy Federation of Teachers, AFT, Local 1921, AFL-CIO v. Gilroy Unified School District (12/28/84) PERB Decision No. 471

The Board found a violation of EERA section 3543.5(a), (b) and (c) in the district's unreasonable refusal to bargain or grant even a minimal amount of release time for members of the Gilroy Federation of Teachers' mixed bargaining team.

The Board rejected the district's argument that even if mixed-team bargaining were proper in itself, the district had no obligation to provide any release time to members of such a team, irrespective of the unit for which they were bargaining because of language in EERA sections 3540.1(e) and 3543(b)(3), indicating a legislative intent to prohibit a combined certificated and classified unit.

The Board indicated that if the district had shown the union was engaging in "coalition" bargaining (the nonmandatory type of bargaining in which an employee organization uses a mixed team in merged contract negotiations for two units), the result would have been different.

S. Scope

1. California School Employees Association and its Chapter #411 v. San Mateo City School District
(4/30/84) PERB Decision No. 383

Proposal on Disciplinary Action is negotiable in its entirety. The proposals do not conflict with Education Code sections 45101(e), 45113 and 45116 and do not supersede them. Rather, the proposals seek to incorporate the statutory provisions into the contract, and provide additional procedural rights. Binding arbitration of disciplinary disputes is negotiable.

Proposal on Layoff and Reemployment is generally negotiable, except provisions defining "lack of funds," restricting layoffs to the end of the academic year, and limiting notice to April 15 conflict with Education Code section 45117 and unlawfully intrude on management's right to lay off for lack of work or lack of funds. Negotiations over the effects of layoff during normal contract negotiations are viewed favorably by the Board.

2. Corning Union High School Teachers Association, CTA/NEA v. Corning Union High School District
(8/17/84) PERB Decision No. 399

The Board held that the district unilaterally substituted a teaching period for a utility or preparation period of seven teachers. The Board ordered the district to grant each of the seven teachers the amount of time off which corresponded to the number of extra hours each worked or, if agreement on the time off could not be reached, to pay each teacher monetary compensation commensurate with the extra hours worked.

3. Gonzales Union High School Teachers Association, CTA/NEA v. Gonzales Union High School District (9/28/84) PERB Decision No. 410

The Board overturned the ALJ's finding that the district violated EERA by its retaliatory removal of a Pepsi machine which was operated by the association. The Board noted that the association had no protected right to maintain the machine for its benefit, and that the district, therefore, violated no protected right in removing it.

The Board upheld the ALJ's finding that the district violated EERA by its failure to negotiate about the school calendar. The district claimed that the calendar adopted by the school board was tentative only and subject to negotiation, and that the association never requested to negotiate the calendar except in the context of a full contract negotiation. The Board, nevertheless, found a sufficient request to negotiate, and a failure by the district ever to indicate its willingness to do so.

4. Davis Teachers Association, CTA/NEA v. Davis Joint Unified School District (12/31/84) PERB Decision No. 474

The Board rejected the district's argument that certain classifications of teachers - adult education, substitutes, summer school, driver training and temporary - were not included in the unit initially recognized by the employer. The Board found that the association's language seeking recognition was broadly worded, as was the language of the district's formal recognition, and the district made no effort to exclude teachers other than those designated as management, supervisory and confidential. The Board declined to find a violation as to four of these categories of teachers, since, at the time the parties were bargaining, there were PERB cases finding those teachers not properly included in the unit (cases which were subsequently overruled by Peralta Community College District (11/17/78) Decision No. 77). The Board, therefore, found no bad faith in the district's refusal to negotiate about these teachers. With regard to temporary teachers however, there was no such defense, since at the time of bargaining, PERB had ruled that these teachers were properly included in a comprehensive unit.

Relying on intervening case law, the Board also evaluated the association's claims that the district refused to negotiate about certain subjects which were within scope. The Board found that the district failed to negotiate with regard to release time, consultation procedures, association rights, commencement of the teachers' work year dates of holidays and the end of the teachers' work year, and found these proposals within scope (with the exception of one of the association rights proposals which would require the district to place the association first on the agenda of every board meeting).

The Board found that the district also refused to negotiate over the number of minimum days, but found that issue was not within scope.

T. Statute of Limitations

1. El Dorado Union High School Faculty Association, CTA/NEA v. El Dorado Union High School District (4/23/84) PERB Decision No. 382

The Board dismissed a charge filed outside the limitations period, reversing the ALJ's finding that the employer's conduct constituted a "continuing violation."

Since the district did not either reimplement the allegedly unlawful policy or independently refuse to negotiate about it during the limitations period, the Board concluded that the association's charge was time barred.

2. Lon Spiegelman v. California School Employees Association (8/23/84) PERB Decision No. 400

The charging party appealed the dismissal of charges alleging a breach of the duty of fair representation as untimely, finding that the statute of limitations was not equitably tolled. The Board held that Spiegelman's action in writing a letter to the association complaining about the representation he received and the association's promise to look into it was not sufficient to toll the statute of limitations.

The dissent would find the statute tolled by Spiegelman's complaint and the association's failure to take action.

3. Inglewood Teachers Association and Rosebud Joyner v. Inglewood Unified School District (8/28/84) PERB Decision No. 401

Employee missed almost 50 percent of the workdays in the school year in the two years prior to the employee's termination. Shortly before the district's action to begin termination proceedings, the employee was advised that any further absences would have to be accompanied by doctor's verification, and when the employee failed to provide the appropriate doctor's verification, the employee was charged personal necessity leave rather than sick leave for the absences. The employee was later dismissed as unfit for service due to absences and failure to comply with the request to verify the absences. The union filed a grievance complaining about verification requirements of the district and the denial of compensation for certain sick days to the employee.

The employee was not dismissed for protected activity. The charging parties failed to prove sufficient facts to establish that the action taken against the employee was motivated by discriminatory intent on the part of the district.

4. Ronald T. Mingo v. Oakland Education Association, CTA/NEA (11/30/84) PERB Decision No. 447

The Board affirmed the regional attorney's dismissal of charges of breach of the duty of fair representation as untimely. While the exclusive representative has an obligation to explain its actions, and it is unclear whether adequate explanation was made in this case, those issues need not be addressed since the charges were untimely in any case.

5. Healdsburg Area Teachers Association, CTA/NEA v. Healdsburg Union High School District (12/20/84) PERB Decision No. 467

The majority affirmed the dismissal of an unfair practice charge alleging the unilateral transfer of bargaining unit work. The district's conduct occurred more than six months prior to the date on which the charge was filed.

U. Unalleged Violations

1. La Canada Teachers Association, CTA/NEA v. La Canada Unified School District (12/13/84) PERB Decision No. 461

The Board affirmed ALJ's finding that the charge that the district unilaterally reduced preparation time was neither pleaded nor litigated.

V. Unfair Practice Procedures

1. Gonzales Union High School District v. Gonzales Union High School Teachers Association, CTA/NEA (2/27/84) PERB Decision No. 379

The Board denied the district's request, made pursuant to Regulation 32155(d), for special permission to appeal an ALJ's refusal to disqualify himself from presiding over an administrative hearing. After a review of the request, including the underlying grounds upon which the district urged disqualification, the Board determined that it would not effectuate the purposes of the Act to grant the district's motion.

2. Terry McConnell v. Los Angeles Community College District (8/15/84) PERB Decision No. 395

Appeal of a dismissal of unfair practice charges properly denied by the executive director of PERB. Appellant failed to serve the respondent with copies of the appeal as required by PERB Regulation 32635.

3. Jules Kimmitt v. Los Angeles Community College District (10/18/84) PERB Decision No. 417

Member of union bargaining committee has standing to file unfair practice charge alleging he was barred from attending negotiation session. Such charges are based on the employee's right to seek employer compliance with the Act.

However, the employee has no personal statutory right to serve on a bargaining committee; such participation is dependent on the union's right to negotiate and to select its bargaining committee without employer interference.

Thus, where district promptly admitted its action was improper and gave appropriate assurances to the union which the union accepted in settlement of the dispute, employee was left with no surviving interest in the matter and the charge was dismissed.

4. Jules Kimmett v. Los Angeles Community College District (10/18/84) PERB Decision No. 418

Member of union bargaining committee has standing to file unfair practice charge alleging district refused to furnish committee with requested information. Such charges are based on an employee's right to seek employer compliance with the Act.

However, the employee has no personal statutory right to such information and his action is to enforce the exclusive representative's statutory right.

Thus, where the record indicates that the exclusive representative has accepted the information furnished by the district, the employee's charge must be dismissed as failing to state a prima facie case.

5. Jules Kimmett v. Los Angeles Community College District (10/18/84) PERB Decision No. 419

The Board affirmed dismissal of unfair practice charge which alleges that the district took "stealthy action," but fails to state any facts demonstrating that the district failed to give notice of its lay-off to the union, that the union requested negotiations, or that the district refused to negotiate upon demand.

6. Saddleback CCD Faculty Association, CTA/NEA v. Saddleback Community College District (11/16/84) PERB Decision No. 433

Dismissal of charge that district unilaterally rescinded policy which permitted teachers to schedule classes on fewer than five days per week was reversed. Investigating regional attorney improperly interpreted an "elaborate scheme regarding work hours, class size and maximum workload" contained in the parties' contract and side letter, which made no reference to class schedules and the meaning of which was disputed by the parties.

The function of an investigating Board agent is to determine whether the charge states facts sufficient

to establish a prima facie case. By interpreting the parties' agreements, the regional attorney resolved the merits of the charging party's case.

Case remanded to general counsel for issuance of complaint.

7. Eastside Teachers Association v. Eastside Union School District (12/19/84) PERB Decision No. 466

Board reversed dismissal of charge and ordered issuance of complaint where: (1) agreement called for employer's maximum contribution toward health plan premiums for period of October 1 to September 30 for teachers who had worked full time during 1982-83 school year; (2) district discontinued premium payment for certain teachers who retired at close of spring semester; (3) Board agent dismissed the charge based on district's ex parte claim that its past practice was to discontinue premiums for teachers who were not returning for the following school year; (4) charge alleged breach of negotiated agreement, and district's claim arguably conflicts with contract provisions which (a) govern status of teachers who have taught both semesters of school year but retire prior to September, and (b) define district's obligation to make maximum premium contribution.

Board agent not entitled, in course of investigating charge, to rule on its merits by resolving these conflicting claims. Charging party entitled to due process proceedings.

Facts alleged in charge, if true, constitute a prima facie violation of EERA, requiring issuance of complaint.

W. Unilateral Change

1. Los Angeles City and County School Employees Union, Local 99, SEIU, AFL-CIO v. Los Angeles Unified School District (9/14/84) PERB Decision No. 407

The Board found the union's charge to allege sufficient facts to support a prima facie violation of a unilateral change in the overtime distribution policy. The overtime provision in the parties' negotiated agreement was not so clear or unambiguous as to establish whether the alleged change in the overtime distribution policy was permitted or prohibited by the contractual language.

2. Modesto Teachers Association, CTA/NEA v. Modesto City Schools and High School District (10/12/84) PERB Decision No. 414 and PERB Order No. 143

The Board overturned the ALJ's finding that the district violated EERA by its unilateral reduction in the length of the duty-free lunch at one high school. The Board found that the length of the lunch period was within the scope of negotiation since it concerns hours. The Board also found that the contract language was unclear, but the past practice at the other three high schools on the same kind of schedule varied with regard to the duty-free lunch. The Board found, therefore, that the association failed to establish that there was an unlawful unilateral change.

3. Monrovia Teachers Association, CTA/NEA v. Monrovia Unified School District (12/13/84) PERB Decision No. 460

The Board reversed the ALJ's finding that the district violated EERA by its unilateral imposition of discipline, finding that the suspension with pay imposed by the district was consistent with past practice as established by the contract. The Board rejected the association's argument that new statutory language adding "causes and procedures for disciplinary action, other than dismissal" to the scope of negotiations under EERA, abrogated existing contract procedures or required negotiations before discipline may be imposed regardless of past practice.

The Board also upheld the ALJ's rejection of an amendment to the charge involving issues which occurred more than six months previous, finding the allegations in question were not included in the original charge, nor sufficiently related to warrant amendment.

4. California School Employees Association and its Lincoln Chapter #282 v. Lincoln Unified School District (12/18/84) PERB Decision No. 465

District violated EERA section 3543.5(c) when it unilaterally eliminated bus drivers' overtime, even when the source of funds to support the overtime bus trips were not district monies but private contributions. ALJ's decision was affirmed, and district must make whole employees for lost overtime wages.

HEERA

A. Access

1. William H. Wilson v. University of California at Berkeley (10/18/84) PERB Decision No. 420-H

On remand from the Court of Appeal, the Board found that HEERA section 3568 permits employee organizations to have access to internal mail systems.

The Board found that guaranteeing employee organizations access to the internal mail system of the University of California does not conflict with federal postal statutes and regulations.

Accordingly, the University violated HEERA section 3571(a) and (b) by denying employee organizations the right to use its internal mail system

B. Attorney's Fees

1. Howard O. Watts v. United Professors of California (8/16/84) PERB Decision No. 398-H

The Board summarily affirmed a Board agent's dismissal of a public notice complaint against an employee organization, reaffirming its finding that only an employer is a proper respondent to such a charge. Kimmett v. LACCD (3/3/81) PERB Decision No. 158.

The Board assessed Watts' costs and attorney's fees, having concluded that the complaint was vexatious and frivolous.

C. Deferral to Arbitration

1. State Employees Trades Council, Local 1268, LIUNA, AFL-CIO v. California State University (8/1/84) PERB Decision No. 392-H

The Board affirmed the decision of the ALJ not to defer to arbitration a charge alleging bad faith participation in the grievance procedure by an employer. The Board held that: a grievance filed against an employer alleging bad faith participation in the parties' grievance procedure will not be deferred to arbitration where the contract limits the

authority of the arbitrator to ruling on whether specific terms of the contract were violated and no specific term covered this violation. The Board found a further reason not to defer in NLRB decisions rejecting deferral when the integrity of the arbitration process itself is at issue.

D. Discrimination

1. California State Employees Association, Chapter 41 v. Regents of University of California (9/6/84) PERB Decision No. 403-H

The Board held that the employee organization's charges of unlawful reprisal and denial of the right to representation were sufficient to warrant issuance of a complaint. Allegations that an employee had work schedule modified unfavorably after participating in a prior proceeding before PERB in these circumstances were sufficient to raise the inference that such protected conduct was a motivating factor in the University's decision to take the adverse action against her. Allegations that the University required her to attend a meeting which could have had substantial significance regarding her working conditions without the presence of a union representative also justified holding a hearing on the matter.

2. CSEA v. Regents of the University of California (12/4/84) PERB Decision No. 449-H

The Board summarily affirmed dismissal of charge that University discriminated against employees because of their participation in protected activities.

E. Extraordinary Circumstances

1. Tom Jones v. University of California, Riverside (6/14/84) PERB Decision No. 386-H

The Board affirmed a staff decision denying a party's request for an extension of time in which to file an appeal. The request for more time was received by PERB three days after the deadline for such a request. Missing the deadline may be excused if the party can show that the lateness resulted from "extraordinary circumstances." Here, the party

claimed that slow mail service was the cause. However, the Board does not recognize mail delay as extraordinary circumstances.

F. Interference

1. California State Employees' Association v. Regents of the University of California (12/28/84) PERB Decision No. 470-H

The Board affirmed ALJ's dismissal of charges that the University violated HEERA sections 3571(a) and (b). Charging party failed to show that technical changes in the way the University defined the positions of student-employees of the library had any tangible effect on working conditions; thus, the University had no obligation to meet and discuss with CSEA, a nonexclusive representative. Neither did the University's actions constitute unlawful reprisal or interference with protected rights.

G. Request for Assistance

1. Howard O. Watts v. California State University (12/7/84) PERB Decision No. 452-H

Request for assistance was denied. (See Los Angeles USD/CSU (8/16/84) PERB Decision No. 396-H.)

SEERA

A. Agency Fee

1. David Keller Graham v. California State Employees Association (11/19/84) PERB Decision No. 434-S

The Board dismissed charge alleging that CSEA violated SEERA by denying charging party's request to be exempted from the payment of fair share fees on the basis of "individual conscience."

The religious exemption provision is clear and unambiguous on its face, as is the legislative intent underlying the section. An exemption for conscientious objectors would render the fair share fee a nullity and defeat its purpose of stabilizing employment relations.

B. Credibility

1. Richard C. Matta v. State of California (Department of Developmental Services, Napa State Hospital) (2/15/84) PERB Decision No. 378-S

The Board summarily affirmed ALJ's dismissal of charge alleging that employee was discriminatorily discharged. Although the employee engaged in protected activity, the employer met its burden of proving that it would have discharged the employee in the absence of protected conduct.

C. Discrimination

1. William Thomas Flint v. The State of California, Department of Consumer Affairs (8/10/84) PERB Decision No. 394-S

The Board upheld the dismissal of an unfair practice charge alleging retaliatory discharge, because the charging party failed to establish a prima facie case by not alleging a connection between the protected activity and the allegedly retaliatory act.

The Board does not permit a late amendment to the charge because the moving party failed to offer any explanation for missing the deadline to amend the charge.

2. Adolph Donins v. State of California (Department of Developmental Services) (10/24/84) PERB Decision No. 423-S

The Board summarily affirmed dismissal of charges of discrimination.

3. David H. Goggin v. State of California (Department of Youth Authority) (11/15/84) PERB Decision No. 432-S

Employee, alleging that he was terminated because of union activity, failed to present evidence of disparate treatment, departure from established procedure, or other indicia of unlawful employer motivation sufficient to overcome the employer's business justification.

Employee had been absent without leave, had relocated to another part of the state without notifying employer, and had not requested extension of medical leave of absence which had expired.

4. California State Employees Association v. State of California (Department of Transportation) (12/12/84)
PERB Decision No. 459-S

The Board held that Caltrans unlawfully disciplined a Caltrans employee and job steward. The record fully supported the ALJ's conclusion that the employee was disparately treated by the supervisor because the employee exercised rights guaranteed by SEERA. The Board rejected Caltrans' claim that PERB was obligated to defer to an SPB ruling that upheld one of the employee's suspensions. Since the evidence demonstrated that, despite employee misconduct, the employer would not have elected to discipline the employee but for union activity, PERB was not divested of its jurisdictional authority.

D. Duty of Fair Representation

1. Paul Norgard v. California State Employees Association (12/7/84) PERB Decision No. 451-S

Although not stated expressly in SEERA, the duty of fair representation may be implied.

Charge alleging that affiliation of independent union (CSEA) with AFL-CIO union violated duty of fair representation was dismissed. Self-defense motivation for affiliating does not evidence arbitrary, discriminatory, or bad faith conduct; nor evidence that CSEA "materially misrepresented" motivation for affiliation.

Mere fact that affiliation decision was not ratified by vote of the entire membership does not state a prima facie violation of the duty of fair representation where no evidence that, because of affiliation, respondent was impaired in ability or willingness to represent employees.

E. Management Prerogative

1. Helene Cauchon et al. v. State of California (Agricultural Labor Relations Board) (11/13/84) PERB Decision No. 431-S

The Board dismissed the charge that the ALRB general counsel unilaterally enacted certain case processing procedures. The majority concluded that the general

counsel was exercising managerial prerogative to direct staff and to exercise statutory control over the agency's complaint processing procedures. The majority also found the allegations in the charge insufficient to demonstrate that the change impacted on employees' hours.

JUDICIAL REVIEW

1. Clovis Unified Teachers Association v. Clovis Unified School District (12/14/84) PERB Order No. JR-12

The Board denied request to join in seeking judicial review of Case No. 389 where request is rendered moot by dismissal of the underlying court decision.

INJUNCTIVE RELIEF

1. San Ramon Valley Unified School District v. San Ramon Valley Education Association, CTA/NEA (10/12/84) PERB Decision No. IR-46

Due to uncertainty of law and conflicting evidence, the Board declined to enjoin a strike which occurred after the statutory impasse procedure had been completed and employer had unilaterally implemented its last best offer.

For similar reasons, the Board declined to enjoin a series of one-day work stoppages under the theory that they were unlawful intermittent strikes.

However, the Board decided to enjoin the strikes on the limited ground that an employee organization must give "adequate notice" before engaging in a work stoppage.

LITIGATION SUMMARY

PERB participated in 20 new Superior Court, Court of Appeal, and California Supreme Court cases in 1984. 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 one involved a published, precedential decision.* The remainder involved summary disposition of petitions seeking review of Board decisions.

These summary dispositions continue 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.

* On July 25, 1984, the First Appellate District issued a decision in The Regents of the University of California v. Public Employment Relations Board (Physicians National Housestaff Association). The California Supreme Court granted a Petition for Hearing filed by PERB and Physicians National Housestaff Association, Real Party in Interest. The case is currently pending.

Precedential Appellate Opinions

1. Redwoods Community College District v. Public Employment Relations Board (1984) 159 Cal.App.3d 617 (Review of PERB Decision No. 293)

This case arose from an unfair practice charge filed by the California School Employees Association alleging that the district unlawfully denied an employee union representation at an evaluation meeting.

After a hearing was held, the ALJ issued a decision which found that the district violated the Act as alleged in the charge. The district filed exceptions. In its decision, the Board concluded that the district unlawfully denied an employee union representation at an evaluation meeting.

On April 11, 1984, the district filed a petition in the First District Court of Appeal seeking review of the Board's decision.

On July 24, 1984, the court issued a decision. The court disagreed with PERB's holding that an employee need not reasonably believe that discipline will result in order to have a union representative present at an employer-employee interview. The court did affirm the Board's conclusion, however, that the Redwoods Community College District did unlawfully deny an employee representation at an evaluation meeting.

Summary Dispositions

1. John A. Broadwood, et al. v. Public Employment Relations Board (Los Altos Unified School District) (Review of PERB Decision No. 190)

On December 27, 1981, the Board issued a decision finding that a retroactive application of agency fees was lawful. Petitioner sought review of the Board's decision in the First District Court of Appeal. The court summarily denied the petition on April 26, 1984. Petitioners requested a hearing before the California Supreme Court. The Supreme Court denied hearing on May 31, 1984.

2. Regents of the University of California v. Public Employment Relations Board (United Health Care) (Review of PERB Decision No. 329-H)

On August 5, 1983, the Board issued a decision holding that the University's ban on non-employee access to patient

floors was too restrictive. On November 11, 1983, the University filed a petition in the Second District Court of Appeal seeking review of the Board's decision. The court summarily denied the University's petition on March 22, 1984.

3. Sierra Joint Community College District v. Public Employment Relations Board (Review of PERB Decision No. 345)

On September 22, 1983, the Board issued a decision holding that the district had unlawfully interfered with the right of the Sierra College Faculty Association to represent unit employees by denying the association the opportunity to address the Board of Trustees in public session. The district appealed the Board's decision to the Third District Court of Appeal. The court summarily denied the district's petition on February 2, 1984.

4. Department of Transportation v. Public Employment Relations Board (Review of PERB Decision No. 361-S)

On November 28, 1983, the Board issued a decision holding that the Department of Transportation (Cal Trans) had committed an unfair practice by making a unilateral decision regarding staffing for the snow removal operation. Cal Trans filed a Petition for Writ of Mandate in the Third District Court of Appeal seeking modification of the Board's decision. On November 18, 1984, the court dismissed the petition as moot.

5. Clovis Unified School District v. Public Employment Relations Board (Review of PERB Decision No. 389)

On July 2, 1984, the Board issued a decision finding that the district committed an unfair practice by urging employees to support one union over another during a pre-election period by making a unilateral change, and by discrimination against a union activist. The Board found that this conduct, along with a captive audience speech 24 hours prior to the election, in which the district urged a "no" representation vote, had a probable impact on the election, and therefore set the election aside.

On August 1, 1984, the district appealed the Board's decision to the Fifth District Court of Appeal. On November 26, 1984, the district withdrew its petition.

6. Goleta Union School District v. Public Employment Relations Board (Review of PERB Decision No. 391)

On August 1, 1984, the Board issued a decision finding that the district violated the Act by unilaterally transferring counselling work out of the bargaining unit to "consultant counselors."

The district filed a petition in the Second Appellate District asking the court to set aside PERB's decision. On December 20, 1984, the court summarily denied the petition.

Pending Significant Cases in Which PERB is a Party

1. William J. Cumero v. Public Employment Relations Board (King City) (Review of PERB Decision No. 197) (Supreme Court)

Court petitioned by one or more individual teachers to vacate the Board's decision which established and applied a test for evaluating allegations that exclusive representatives have unlawfully refused to rebate portions of agency fee payments spent on impermissible purposes. Cumero also challenges the application of PERB's test to specific expenditures made by the exclusive representative in this case.

2. Dixie Elementary School District v. Public Employment Relations Board (3/29/83) (Review of PERB Decision No. 298) (Court of Appeal)

Court petitioned by district seeking to overturn decision which determined that the district had violated EERA by refusing to negotiate with the Dixie Teachers Association (DTA). The district's action was a "technical" refusal to bargain to challenge the Board's underlying unit modification decision, Dixie Elementary School District (8/11/81) PERB Decision No. 171, in which the Board accreted all substitute and temporary teachers to the regular classroom teachers' bargaining unit.

3. Regents of the University of California v. Public Employment Relations Board (Physicians National Housestaff Association) (Review of PERB Decision No. 283-H) (Supreme Court)

Shortly after HEERA became effective the Regents of the University of California (UC) notified the Physicians National Housestaff Association that it would no longer

deduct dues from the salaries of housestaff because UC felt that housestaff were "students" and not "employees" within the meaning of the Act.

The association filed an unfair practice charge, a formal hearing was held, and the ALJ issued a decision concluding that housestaff were not employees, but primarily students.

The Board reversed the ALJ finding that housestaff are employees and, therefore, are entitled to coverage under the Act. PERB found that UC violated the Act by refusing to make payroll deductions for the association.

UC filed a petition in the First District Court of Appeal asking the court to vacate the Board's decision. On July 25, 1984, the court issued its decision concluding that housestaff are "students" for the purposes of HEERA. The court annulled PERB's decision and remanded the case to PERB with directions to issue a new decision.

On September 3, 1984, PERB filed a Petition for Hearing in the California Supreme Court. On October 4, the court granted hearing. Oral argument has not yet been scheduled.

4. Regents of the University of California v. Public Employment Relations Board (University Council, American Federation of Teachers) (Review of PERB Decision No. 359-H) (Court of Appeal)

In February of 1980, the University made a change in the conditions of employment with respect to lecturers without prior notice to the non-exclusive representatives. The American Federation of Teachers filed charges with PERB. The Board concluded that the University was required to provide non-exclusive representatives advance notice and an opportunity to meet and discuss intended changes in employment conditions.

The University filed a petition in the First Appellate District seeking review of the Board's decision. The court scheduled oral argument for January 1985.

5. Regents of the University of California v. Public Employment Relations Board (Laborer's Local 1276) (Review of PERB Decision No. 212-H) (Supreme Court)

The University failed to provide advance notice and opportunity to meet and confer to the non-exclusive representative (Laborer's Local 1276) prior to implementing

a new policy. The Board found that the University violated the Act. The Board also concluded that certain aspects of the University's regulations relating to access by non-employee organizational representatives to facilities at the Lawrence Livermore National Laboratory were unreasonable.

The University filed a petition in the First Appellate District seeking review of PERB's decision. On November 8, 1984, the court summarily denied the petition.

The University filed a Petition for Hearing in the California Supreme Court. The court has not yet ruled on the Petition.

6. Regents of the University of California v. Public Employment Relations Board (William H. Wilson) (Review of PERB Decision No. 420-H) (Court of Appeal)

In November of 1981, PERB issued a decision holding that HEERA section 3568 guaranteed to employee organizations the right to use the University's internal mail system. Because the University's regulations prohibit such use, PERB found that the University violated the Act.

The University filed a petition in the First Appellate District seeking review of the Board's decision.

On February 17, 1983, the court issued a formal decision remanding the case to the Board for findings on the issue of whether the University's regulations are reasonable in light of federal postal requirements.

On October 18, 1984, the Board issued its decision finding (1) that the University's policies are not reasonable, and (2) that the University violated the Act by denying employee organizations access to the internal mail system.

The University appealed the Board's decision on remand. This case is currently pending before the court.

7. Mt. Diablo Education Association/Mt. Diablo Unified School District v. Public Employment Relations Board (Review of PERB Decision No. 373-c) (Court of Appeal)

In February of 1980 the Mt. Diablo Unified School District Board of Education passed a resolution to close schools and lay off 455 teachers. The district did not notify the Mt. Diablo Education Association of its intent to lay off.

After the association demanded to bargain over the impact and implementation of this action (including criteria for determining the order of layoff), the district unilaterally adopted criteria for determining layoff shortly thereafter.

The association filed an unfair practice charge, a hearing was held, and the ALJ issued a decision. Exceptions were filed, and on December 30, 1983, the Board issued a decision holding that while the district's decision to lay off is not negotiable, the effects of that decision are negotiable. The Board found that the district violated the Act by not providing the association an opportunity to bargain over the effects of its decision to lay off.

Both the district and the association have sought review of the Board's decision in the First Appellate District.

PUBLIC EMPLOYMENT RELATIONS BOARD

EERA UNITS IN PLACE

Total Number of School Employers	1,174
Number with no Activity	192
Number with Activity	982
Total Number of Units	2,300
Number of Certificated Units	1,210
Number of Classified Units	1,053
Number of Certificated Supervisory Units	11
Number of Classified Supervisory Units	26
Total Number of Employees	439,064
Number of Certificated Employees	249,868
Number of Classified Employees	188,063
Number of Certificated Supervisory Employees	404
Number of Classified Supervisory Employees	729
Type of School District	
Unified School District	237
Elementary School District	368
High School District	5
Union Elementary School District	252
Union High School District	76
Joint Union Elementary School District	16
Joint Union High School	30
Joint Unified School District	31
Joint Elementary School District	13
County Office of Education	57
Community College District	71
Public School District (Combined)	10
Miscellaneous Listing	8

PUBLIC EMPLOYMENT RELATIONS BOARD

SEERA UNITS IN PLACE

UNIT	EMPLOYER/UNIT	NO. EMPLOYEES
	State of California	
S01	Admin./Fin./Staff Serv.	23,809
S02	Attorney & H.O.	1,754
S03	Education & Library	2,400
S04	Office & Allied	31,235
S05	Highway Patrol	4,212
S06	Corrections	8,390
S07	Prot. Serv. & Pub. Safety	4,857
S08	Firefighter	2,282
S09	Professional Engineer	4,714
S10	Professional Scientific	1,366
S11	Engineering and Sci. Techs	2,970
S12	Craft & Maintenance	9,675
S13	Stationery Engineer	472
S14	Printing Trades	793
S15	Custodial Services	6,100
S16	Physician/DDS/Podiatrist	977
S17	Registered Nurses	2,000
S18	Psychiatric Technician	7,563
S19	Health & Soc. Serv. Prof.	2,768
S20	Med./Soc. Serv. Support	2,000
	TOTAL	120,337

PUBLIC EMPLOYMENT RELATIONS BOARD

HEERA UNITS IN PLACE

UNIT	EMPLOYER/UNIT	NO. EMPLOYEES
	University of California	
U01	Police	230
U02	Faculty/Santa Cruz	295
U03	LLNL Skilled Crafts	264
U04	UCB/Lawr. Skilled Crafts	238
U05	UCSF Skilled Crafts	52
U06	UCLA Skilled Crafts	326
U07	Printing Trades	95
U08	LLNL Technical	1,653
U09	Systemwide Technical	4,093
U10	LLNL Service	461
U11	Service	6,286
U12	Clerical & Allied Service	19,352
U13	Patient Care Technical	4,109
U14	Residual Patient Care Prf.	1,524
U15	Registered Nurses	4,420
U16	LLNL Prof. Sci. & Eng.	2,746
U17	Professional Librarians	401
U18	Non Academic Senate Inst.	1,877
U19	Research & Allied	7,802
U20	UCR Skilled Crafts	39
U21	UCI Skilled Crafts	81
U22	UCSB Skilled Crafts	49
U23	UCD Skilled Crafts	202
U24	UCSD Skilled Crafts	122
U25	UCSC Skilled Crafts	25
U26	Housestaff	2,117
U27	Research Support Professionals	3,423
	TOTAL	62,282
	California State University	
C01	Physicians	140
C02	Health Care Support	273
C03	Faculty	19,106
C04	Academic Support	1,335
C05	Operations - Support Serv.	2,108
C06	Skilled Crafts	815
C07	Cler. & Admin. Support Serv.	6,677
C08	Pub. Sfty. Ofcrs. & Invest.	166
C09	Tech. & Support Services	2,107
	TOTAL	32,732

EERA - HEERA - SEERA
 REPRESENTATION CASE ACTIVITY
 TOTAL ACTIVITY FOR 1984

	<u>Active as of 01/01/84</u>	<u>Cases Filed 1984</u>	<u>Total Active Cases</u>	<u>Closed Cases 1984</u>	<u>Active as of 12/31/84</u>
Representation Petitions	31	43	74	53	21
Decertification Petitions	15	44	59	49	10
Unit Modification Petitions	13	113	126	90	36
Organizational Security Petitions	6	38	44	37	7
Amended Certifications	5	7	12	12	0
Mediations	199	489	688	447	241
Factfindings	14	75	89	67	22
Arbitrations	5	2	7	7	0
Public Notice Complaints	26	15	41	34	7
Compliances	45	37	82	50	32
Financial Statements	1	1	2	2	0
Challenged Ballots	0	5	5	1	4
Election Objections	1	2	3	0	3
TOTALS	<u>361</u>	<u>871</u>	<u>1,232</u>	<u>849</u>	<u>383</u>

**EERA REPRESENTATION CASE ACTIVITY
TOTAL ACTIVITY FOR 1984**

	<u>Active as of 01/01/84</u>	<u>Cases Filed 1984</u>	<u>Total Active Cases</u>	<u>Closed Cases 1984</u>	<u>Active as of 12/31/84</u>
Representation Petitions	24	38	62	47	15
Decertification Petitions	12	41	53	43	10
Unit Modification Petitions	11	85	96	84	12
Organizational Security Petitions	5	30	35	32	3
Amended Certifications	5	7	12	12	0
Mediations	199	479	678	438	240
Factfindings	14	74	88	66	22
Arbitrations	5	2	7	7	0
Public Notice Complaints	12	13	25	20	5
Compliances	33	28	61	36	25
Financial Statements	0	0	0	0	0
Challenged Ballots	0	1	1	1	0
Election Objections	1	2	3	0	3
TOTALS	<u>321</u>	<u>800</u>	<u>1,121</u>	<u>786</u>	<u>335</u>

**SEERA REPRESENTATION CASE ACTIVITY
TOTAL ACTIVITY FOR 1984**

	<u>Active as of 01/01/84</u>	<u>Cases Filed 1984</u>	<u>Total Active Cases</u>	<u>Closed Cases 1984</u>	<u>Active as of 12/31/84</u>
Representation Petitions	1	3	4	3	1
Decertification Petitions	2	3	5	5	0
Unit Modification Petitions	1	28	29	5	24
Organizational Security Petitions	1	8	9	5	4
Amended Certifications	0	0	0	0	0
Mediations	0	4	4	3	1
Factfindings	NA	NA	NA	NA	NA
Arbitrations	0	0	0	0	0
Public Notice Complaints	0	0	0	0	0
Compliances	3	4	7	5	2
Financial Statements	1	1	2	2	0
Challenged Ballots	0	0	0	0	0
Election Objections	0	0	0	0	0
TOTALS	<u>9</u>	<u>51</u>	<u>60</u>	<u>28</u>	<u>32</u>

**HEERA REPRESENTATION CASE ACTIVITY
TOTAL ACTIVITY FOR 1984**

	<u>Active as of 01/01/84</u>	<u>Cases Filed 1984</u>	<u>Total Active Cases</u>	<u>Closed Cases 1984</u>	<u>Active as of 12/31/84</u>
Representation Petitions	6	2	8	3	5
Decertification Petitions	1	0	1	1	0
Unit Modification Petitions	1	0	1	1	0
Organizational Security Petitions	0	0	0	0	0
Amended Certifications	0	0	0	0	0
Mediations	0	6	6	6	0
Factfindings	0	1	1	1	0
Arbitrations	0	0	0	0	0
Public Notice Complaints	14	2	16	14	2
Compliances	9	5	14	9	5
Financial Statements	0	0	0	0	0
Challenged Ballots	0	4	4	0	4
Election Objections	0	0	0	0	0
TOTALS	<u>31</u>	<u>20</u>	<u>51</u>	<u>35</u>	<u>16</u>

EERA ELECTIONS HELD - 1984

1984 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT	
01/11	S -R -745E	Yreka UNESD	CLS	13	13	CSEA-12			1	0	0	C/REP	
01/18	LA-R -885E	Simi USD	CLS	270	170	CSEA-128	Teamst-42		0	0	2	C/REP	
03/08	S -R -752E	Le Grand UnHSD	CRT	17	16	See NO-REP	CTA-7		9	0	0	C/REP	
03/09	S -R -754E	Island UnESD	CLS	12	12	CSEA-9			3	0	0	C/REP	
04/26	SF-R -656E	Upper Lake UnHSD	CRT	22	17	CTA-17			0	0	0	C/REP	
05/01	SF-R -658E	West Valley JtCCD	CRT	782	470	ACE-290	CTA-95		85	0	1	C/REP	
05/17	S -R -753E	Alview-Dairyland UnSD	CRT	12	12	CTA-11			1	0	0	C/REP	
05/24	S -R -749AE	Madera COE	CLS	57	44	CSEA-27			17	0	0	C/REP	
05/24	S -R -749BE	Madera COE	CLS	17	14	See NO-REP	CSEA-3		11	0	0	C/REP	
06/07	LA-R -887E	Trona JtUSD	CRT	54	49	See NO-REP	CTA-20		29	0	0	C/REP	
06/22	LA-R -877E	San Bernardino CCD	CRT	628	459	CTA-262			171	26	0	C/REP	
09/26	S -R -768E	Pleasant Ridge UnESD	CLS	7	6	CSEA-6			0	0	0	C/REP	
11/15	SF-R -666E,I-101E	Cabrillo CCD	CRT	400	333		AFT-145	CTA-73	115	0	0	C/REP	
11/28	S -R -772E	Dos Palos JtUnHSD	CLS	28	23	CSEA-14			9	0	0	C/REP	
11/29	S -R -729E	Clovis USD	CRT	698	601	See NO-REP	CTA-239		359	3	5	D/REP	
12/13	SF-I -101E	Cabrillo CCD	CRT	400	313	AFT-181			132	0	0	D/RO	
12/18	S -R -767E	Modoc COE	CLS	14	11	CSEA-10			1	0	1	C/REP	
12/21	LA-R -894E	Bakersfield City ESD	CLS	17	14	FUSE-12			1	1	0	C/REP	
01/25	SF-D -115E	Richmond USD	CLS	245	204	PEU-107	CSEA-94		3	0	0	D/REP	
02/21	SF-D -116E, 117E	Mendocino COE	CRT	112	90	AFT-61	MTA-2	CTA-23	1	3	0	D/REP	
02/22	LA-D -142E	Oxnard UnHSD	CRT	394	323	AFT-211	CTA-108		2	2	0	D/REP	
03/28	LA-D -143E	Kern COE	CLS	336	275	SSCA-161	CSEA-96		10	8	0	D/REP	
04/24	S -D -069E	Rio Linda UnESD	CLS	45	43	See NO-REP	CSEA-16		27	0	0	D/REP	
05/15	LA-D -149E, 150E, 151E	San Diego CCD	CLS	404	295		CEA-137	SEIU-29 CSEA-76	AFT-44	8	1	0	D/REP
05/16	SF-D -120E	San Mateo CCD	CRT	953	649	AFT-364	CTA-271		11	3	2	D/REP	
05/17	SF-D -119E	Franklin-McKinley SD	CRT/S	18	20	ADA-10			8	2	0	D/REP	
05/17	LA-D -152E*	San Diego CCD	CRT	1487	726	CTA-369	AFT-323		34	0	25	D/REP	
05/18	LA-D -144E	Grossmont CCD	CRT	478	366	UFGCCD-215	CTA-136		15	0	1	D/REP	
05/22	LA-D -153E	Lompoc USD	CRT	438	402	AFT-261	CTA-138		0	3	1	D/REP	
05/23	LA-D -148E	Santa Paula UnHSD	CRT	55	54	AFT-35			19	0	0	D/REP	
05/24	S -D -072E	Enterprise ESD	CRT	104	100	CTA-61	UTE-37		2	0	0	D/REP	
05/24	SF-D -124E	Piner-Olivet USD	CLS	28	25	See NO-REP	POCU-11		14	0	0	D/REP	
05/28	SF-D -121E	San Jose USD	CLS	353	268	AFSCME-144	CSEA-110		14	0	0	D/REP	
05/29	SF-D -122E	Redwood City SD	CLS	88	66	CSEA-48	AFSCME-17		1	0	1	D/REP	
05/31	LA-D -145E	Pasadena USD	CRT	325	272	Teamst-137	CSEA-128		7	0	11	D/REP	
06/04	LA-D -147E	Coast CCD	CLS	710	457	AFT-262	CSEA-168		27	0	4	D/REP	
06/05	SF-D -123E	Live Oak SD	CRT	67	68	CTA-37	AFT-29		0	2	0	D/REP	
06/05	LA-D -146E	Los Angeles CCD	CLS	42	31	LACCDPOA-17	CSEA-11		3	0	1	D/REP	
06/06	LA-D -155E	Coachella Valley USD	CRT	336	291	AFT-155	CTA-130		6	0	2	D/REP	
06/13	LA-D -157E	Antelope Valley UnHSD	CRT	252	240	CTA-133	AFT-107		0	0	0	D/REP	
07/02	LA-D -149E	San Diego CCD - Runoff	CLS	411	309	CSEA-173	CEA-136		0	0	9	D/RO	
07/18	S -D -073E	Los Rios CCD	CLS/S	31	25	LRSA-16			9	0	0	D/REP	
08/31	LA-D -159E	Compton USD	CLS	95	54	CSEA-29	CUSDPOA-25		0	0	0	D/REP	
09/13	SF-D -118E	Konocti USD	CLS	54	48	KCEG-24	OELU-14		5	5	1	D/REP	
09/27	LA-D -156E	Santa Ana USD	CRT	1567	1271	CTA-764	AFT-472		35	0	4	D/REP	
10/02	LA-D -158E	Ocean View SD	CRT	110	102	CTA-71	AFT-29		2	0	0	D/REP	
10/25	S -D -076E	Bute Valley SD	CLS	21	18	CSEA-15			3	0	0	D/REP	

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*5/17 Challenges Determinative 9/11 Revised Tally results shown above

EERA ELECTIONS HELD - 1984

1984 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
01/19	LA-OS-061E	Orange USD	CRT	981	644		OS/YES-430	OS/NO-213		1	0	C/OS
02/22	SF-OS-104E	Forestville UnSD	CRT	35	33		OS/YES-22	OS/NO-11		0	0	C/OS
02/23	S -OS-044E	Orland Public Schools	CRT	97	68		OS/YES-63	OS/NO-5		0	0	C/OS
03/08	S -OS-045E	Woodlake UnESD	CRT	57	52		OS/YES-44	OS/NO-8		0	0	C/OS
03/13	S -OS-042E	Yolo COE	CRT	59	46		OS/YES-29	OS/NO-17		0	0	C/OS
03/13	S -OS-043E	Yolo COE	CLS	71	51		OS/YES-37	OS/NO-14		0	0	C/OS
03/26	LA-OS-063E	Compton CCD	CRT	161	45		OS/YES-34	OS/NO-10		1	0	C/OS
03/27	LA-OS-064E	Redondo Beach City ESD	CRT	184	140		OS/YES-123	OS/NO-15		2	0	C/OS
04/09	LA-OS-065E	Chino USD	CLS	525	252		OS/YES-232	OS/NO-20		0	0	C/OS
04/10	SF-OS-106E	San Mateo UnHSD	CRT	400	314		OS/YES-198	OS/NO-116		0	0	C/OS
05/02	LA-OS-066E	Chaffey JtUnHSD	CLS	425	260		OS/YES-213	OS/NO-47		0	1	C/OS
05/02	SF-OS-107E	South San Francisco USD	CLS	357	182		OS/YES-151	OS/NO-31		0	0	C/OS
05/03	SF-OS-108E	San Mateo UnHSD	CLS	160	86		OS/YES-47	OS/NO-39		0	0	C/OS
05/09	SF-OS-109E	Moreland SD	CRT	173	119		OS/YES-89	OS/NO-30		0	0	C/OS
05/29	LA-OS-068E	San Marcos USD	CRT	250	89		OS/YES-38	OS/NO-51		0	0	C/OS
10/17	LA-OS-072E	Rio Hondo CCD	CLS	175	133		OS/YES-87	OS/NO-46		0	2	C/OS
10/18	SF-OS-110E	South County CCD	CLS	222	170		OSR/YES-91	OSR/NO-79		0	0	D/OSR
10/25	LA-OS-070E	San Ysidro ESD	CRT	150	114		OSR/YES-50	OSR/NO-64		0	0	D/OSR
10/30	LA-OS-071E	Vista USD	CRT	548	376		OSR/YES-138	OSR/NO-238		0	1	D/OSR
11/08	S -OS-049E	Trinity UnHSD	CRT	36	34		OS/YES-17	OS/NO-17		0	0	C/OS
11/15	LA-OS-062E	Sweetwater UnHSD	CRT	1218	862		OSR/YES-454	OSR/NO-408		0	0	D/OSR
11/28	LA-OS-075E	Palos Verdes Peninsula USD	CRT	492	362		OS/YES-267	OS/NO-93		2	0	C/OS
11/29	LA-OS-073E	Desert Sands USD	CRT	457	252		OS/YES-210	OS/NO-42		0	1	C/OS
11/30	SF-OS-111E	West Valley JtCCD	CLS/S	35	24		OS/YES-11	OS/NO-13		0	1	C/OS
12/11	LA-OS-076E	Capistrano USD	CLS	75	51		OS/YES-36	OS/NO-15		0	0	C/OS
12/11	LA-OS-077E	Capistrano USD	CLS	500	296		OS/YES-188	OS/NO-107		1	0	C/OS
12/12	SF-OS-112E	San Ramon Valley USD	CRT	726	546		OS/YES-311	OS/NO-233		2	1	C/OS
12/18	LA-OS-078E	Desert Sands USD	CLS	371	166		OS/YES-122	OS/NO-43		1	0	C/OS
12/20	LA-OS-074E	Rio Hondo CCD	CRT	417	233		OS/YES-117	OS/NO-99		17	2	C/OS
03/21	S -UM-194E	Sacramento City USD	CRT	354	187	CTA-133			54	0	1	C/REP
06/25	S -UM-208E	Stockton USD	CRT	181	129	CTA-89			40	0	5	C/REP

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HEERA ELECTIONS HELD - 1984

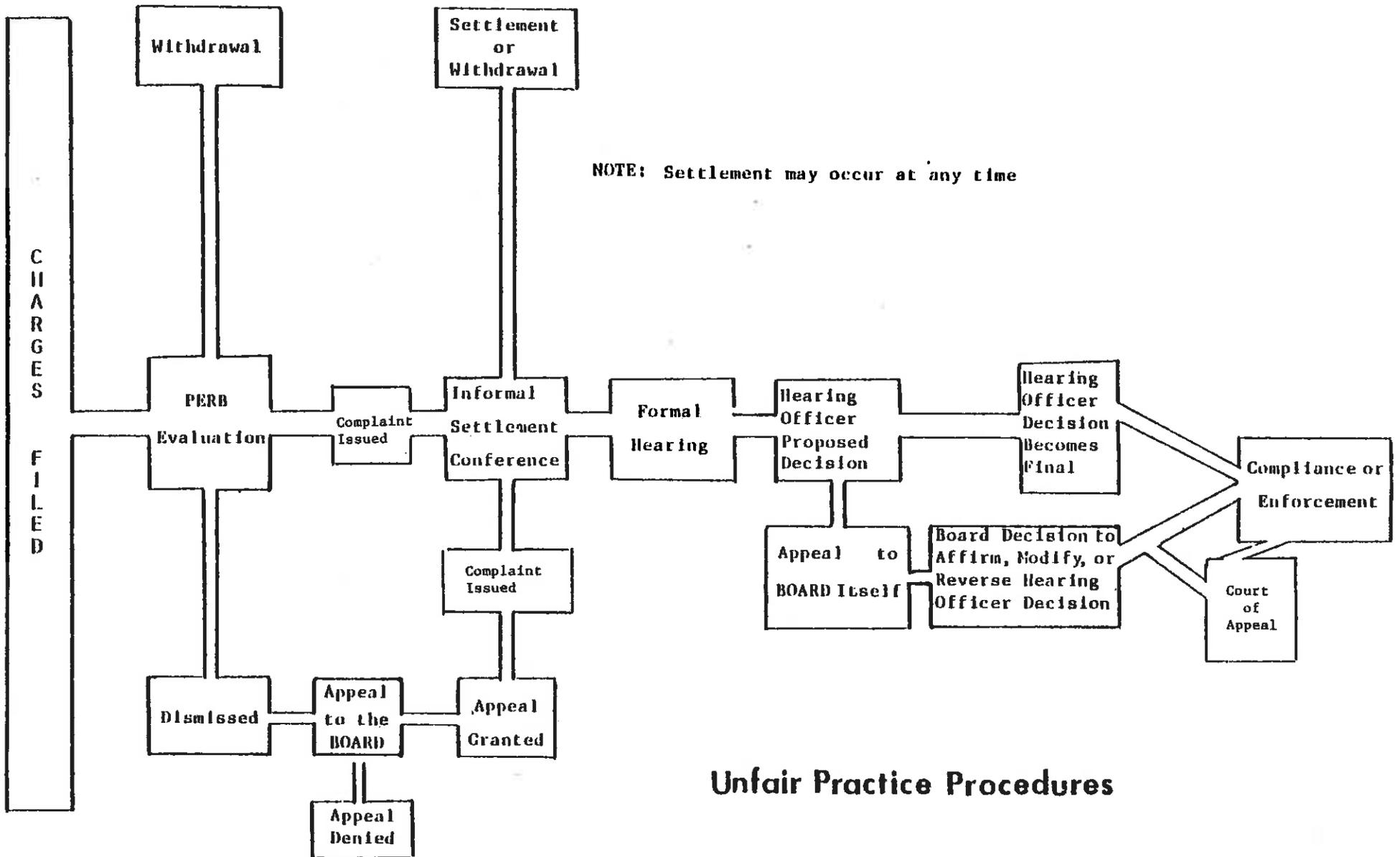
1984 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
09/27	SF-D -109H	Regents of UC	U01	192	132	See NO-REP	SUPA-59		73	0	1	D/REP

SEERA ELECTIONS HELD - 1984

1984 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
03/02	S -D -064S	State of California	S06	8390	4381	CCOPA-3370	CSEA-920		81	10	89	D/REP
08/23	S -D -071S	State of California	S10	1366	1004	CAPS-633	CSEA-308		54	9	7	D/REP
10/11	S -OS-046S	State of California	S19	2694	1395		OS/YES-822	OS/NO-573		0	13	C/OS
11/29	S -OS-047S	State of California	S16	924	539		OS/YES-401	OS/NO-138		0	11	C/OS
12/13	S -OS-054S	State of California	S10	1372	837		OS/YES-531	OS/NO-305		1	9	C/OS
12/20	S -OS-052S	State of California	S11	3352	1509		OS/YES-876	OS/NO-633		0	72	C/OS
12/20	S -OS-053S	State of California	S20	1827	622		OS/YES-513	OS/NO-108		1	40	C/OS
12/21	S -OS-051S	State of California	S04	32054	13775		OS/YES-9723	OS/NO-4049		3	603	C/OS
12/21	S -OS-050S	State of California	S01	24679	12472		OS/YES-6117	OS/NO-6343		12	372	C/OS

ABBREVIATIONS TO THE ELECTION LOG

ACE Association of Certificated Educators (West Valley JtCCD)
ADA Association of District Administrators (Franklin-McKinley SD)
AFSCME American Federation of State, County, and Municipal Employees
AFT American Federation of Teachers
CAPS California Association of Professional Scientists
CCOPA California Correctional Peace Officers Association
CSEA California State Employees Association (For SEERA)
CSEA California School Employees Association (For EERA)
CTA California Teachers Association
CUSDPOA Compton USD Peace Officers Association (Affiliated with PORAC)
KCEG Konocti Classified Employees Group (Konocti USD)
LACCDPOA Los Angeles CCD Police Officers Association (Affiliated with
PORAC)
LRSA Los Rios Supervisors Association (Los Rios CCD)
MTA Mendocino County Teachers Association
OELU Operating Engineers Local Union - (Konocti USD)
PEU Public Employees Union, Local-1
POCU Piner-Olivet Classified Unit
SEIU Service Employees International Union
SSCA Superintendent of Schools Classified Association (Kern COE)
SUPA Statewide University Police
UFGCD United Faculty of Grossmont CCD
UTE United Teachers of Enterprise (Enterprise ESD)



Unfair Practice Procedures

TOTAL FILINGS - 1984
UNFAIR PRACTICE CASES - BY ACT

CE's

	<u>EERA</u>	<u>SEERA</u>	<u>HEERA</u>	<u>TOTAL</u>
JAN	29	2	3	34
FEB	34	5	4	43
MAR	56	2	2	60
APR	63	3	4	70
MAY	40	8	3	51
JUN	33	10	10	53
JUL	19	9	2	30
AUG	29	1	4	34
SEPT	44	4	2	50
OCT	48	4	2	54
NOV	39	2	5	46
DEC	<u>37</u>	<u>4</u>	<u>5</u>	<u>46</u>
TOTAL	471	54	46	571

CO's

	<u>EERA</u>	<u>SEERA</u>	<u>HEERA</u>	<u>TOTAL</u>
JAN	2	0	0	2
FEB	7	4	1	12
MAR	9	1	0	10
APR	26	1	1	28
MAY	2	1	1	4
JUN	7	0	0	7
JUL	6	0	1	7
AUG	5	1	0	6
SEPT	2	1	1	4
OCT	6	2	0	8
NOV	8	2	1	11
DEC	<u>6</u>	<u>0</u>	<u>0</u>	<u>6</u>
TOTAL	86	13	6	105

GRAND TOTALS	557	67	52	676
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EERA-HEERA-SEERA
 UNFAIR PRACTICE CASE ACTIVITY
 1/01/84 TO 12/31/84

	<u>ACTIVE AS OF 1/01/84</u>	<u>CASES FILED</u>	<u>CLOSED CASES</u>	<u>ACTIVE AS OF 12/31/84</u>
<u>EERA</u>				
CE	248	471	443	276
CO	54	86	76	64
TOTAL	<u>302</u>	<u>557</u>	<u>519</u>	<u>340</u>
<u>HEERA</u>				
CE	36	46	47	35
CO	2	6	3	5
TOTAL	<u>38</u>	<u>52</u>	<u>50</u>	<u>40</u>
<u>SEERA</u>				
CE	44	54	72	26
CO	7	13	17	3
TOTAL	<u>51</u>	<u>67</u>	<u>89</u>	<u>29</u>
<u>GRAND TOTAL</u>				
CE	328	571	562	337
CO	63	105	96	72

1984 REGIONAL ATTORNEY STAFF ACTIVITY

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
Complaints Issued	279	29	21	329
Dismissals	126	12	23	161
Withdrawals	371	27	51	449

1984 ADMINISTRATIVE LAW JUDGE ACTIVITY

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
Proposed Decisions Issued	52	13	8	73
- Appeals	24	5	3	32
- Final Decisions	28	8	5	41
Informal Settlement Conferences	270	28	24	322
Hearings Held	63	12	4	79

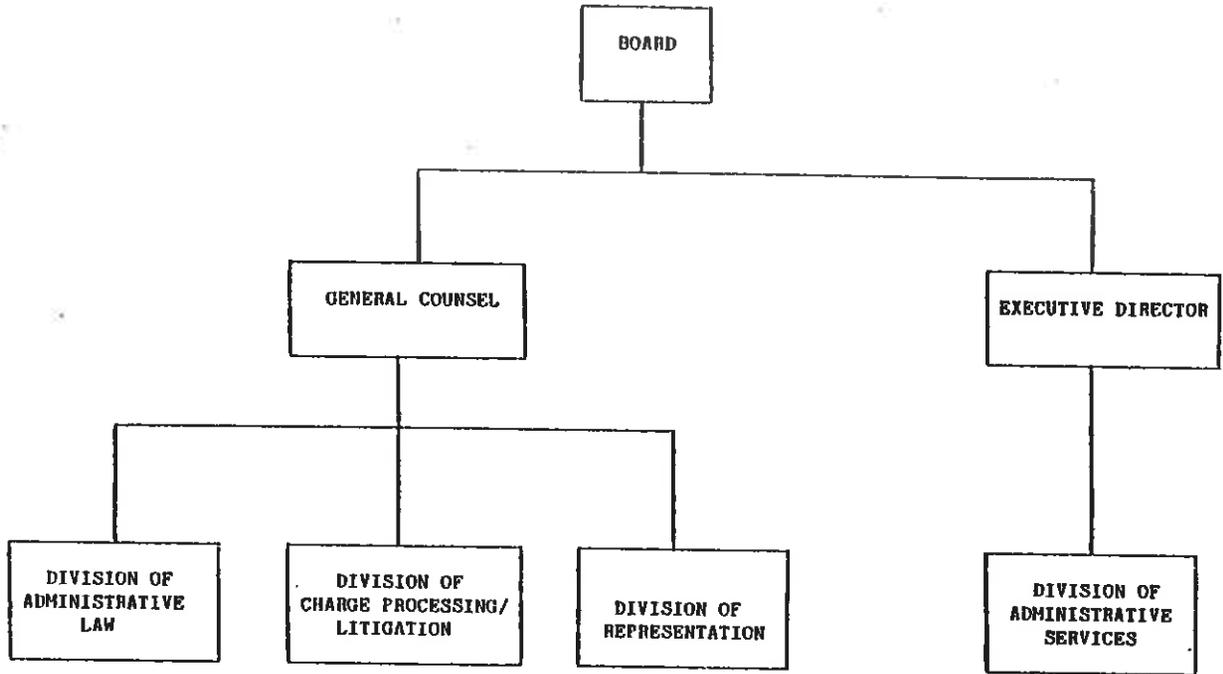
1984 INJUNCTIVE RELIEF REQUESTS

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>TO BD</u>	<u>DISPOSITION</u>
190	AFSCME v. Los Rios CCD	S-CE-715	Unilateral implementation of factfinding	1/27/84	2/3/84	Denied by letter 2/6/84
191	Paul Norgard v. CSEA, Bd. of Directors	S-CO-29-S	Interference	2/3/84	2/15/84	Denied by letter 2/16/84
192	Gonzales Union HSD v. Gonzales Union HSD Teachers Assn.	SF-CO-266	Surface bargaining	2/15/84	Letter to Board indicating injunctive relief request would be withdrawn 3/6/84	Withdrawn 3/6/84
193	San Ramon Valley USD v. San Ramon Ed. Assn.	SF-CO-230	Unannounced one-day strikes	3/30/84	3/30/84	Granted by letter 4/3/84
194	San Ramon Valley Ed. Assn San Ramon Valley USD	SF-CE-881	By-pass of exclusive representative; regressive bargaining; unilateral change re: substitute's pay	3/30/84	4/2/84	Denied by letter 4/3/84
195	Selma Unified Teachers Association v. Selma USD	S-CE-773	Unilateral change re: 6% pay raise	5/30/84	5/30/84	Temporary restraining order denied 5/31/84; obtained preliminary injunction 6/14/84

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>TO BD</u>	<u>DISPOSITION - DATE</u>
196	Gonzales Union HSD v. Gonzales Union Teachers Assn.	SF-CO-253	Failure to bargain in good faith	6/1/84	6/1/84	Granted by letter 6/4/84
197	CFA v. CSA		Refusal to process grievance past 1st level	6/5/84	--	Withdrawn 6/5/84
198	Wm. E. Harmening v. CSEA	S-CO-110	Objection to recall election	6/6/84	6/13/84	Denied by letter 6/15/84
199	CFA v. CSU	LA-CE-105-H	Refusal to process grievance	6/7/84	6/15/84	Denied by letter 6/20/84
200	CAUSE v. State of CA	S-CE-229-S	Unilateral change of vacations, work shifts & modification of per diem	7/6/84	7/11/84	Denied by letter 7/11/84
201	Palo Alto Educators Assn. v. Palo Alto USD	SF-CE-938	Unilateral imposition of public bargaining	8/16/84	8/22/84	Withdrawn 8/24/84
202	San Ramon Valley USD v. San Ramon Valley Ed. Assoc.	SF-CO-259	Bad faith bargaining	8/20/84	8/27/84	IR-46
203	Fountain Valley Educators Assn. v. Fountain Valley SD	LA-CE-2040	Unilateral change re: number of instructional days for school year	9/7/84	9/19/84	Withdrawn 9/26/84
204	Benicia USD v. Benicia Teachers Assn.	SF-CE-944	Strike	9/21/84	9/25/84	Withdrawn 9/25/84
205	San Ramon Valley USD v. San Ramon Valley TA	SF-CE-881 SF-CO-230	Intermittent strikes; bad faith bargaining	9/21/84	--	Withdrawn 10/3/84

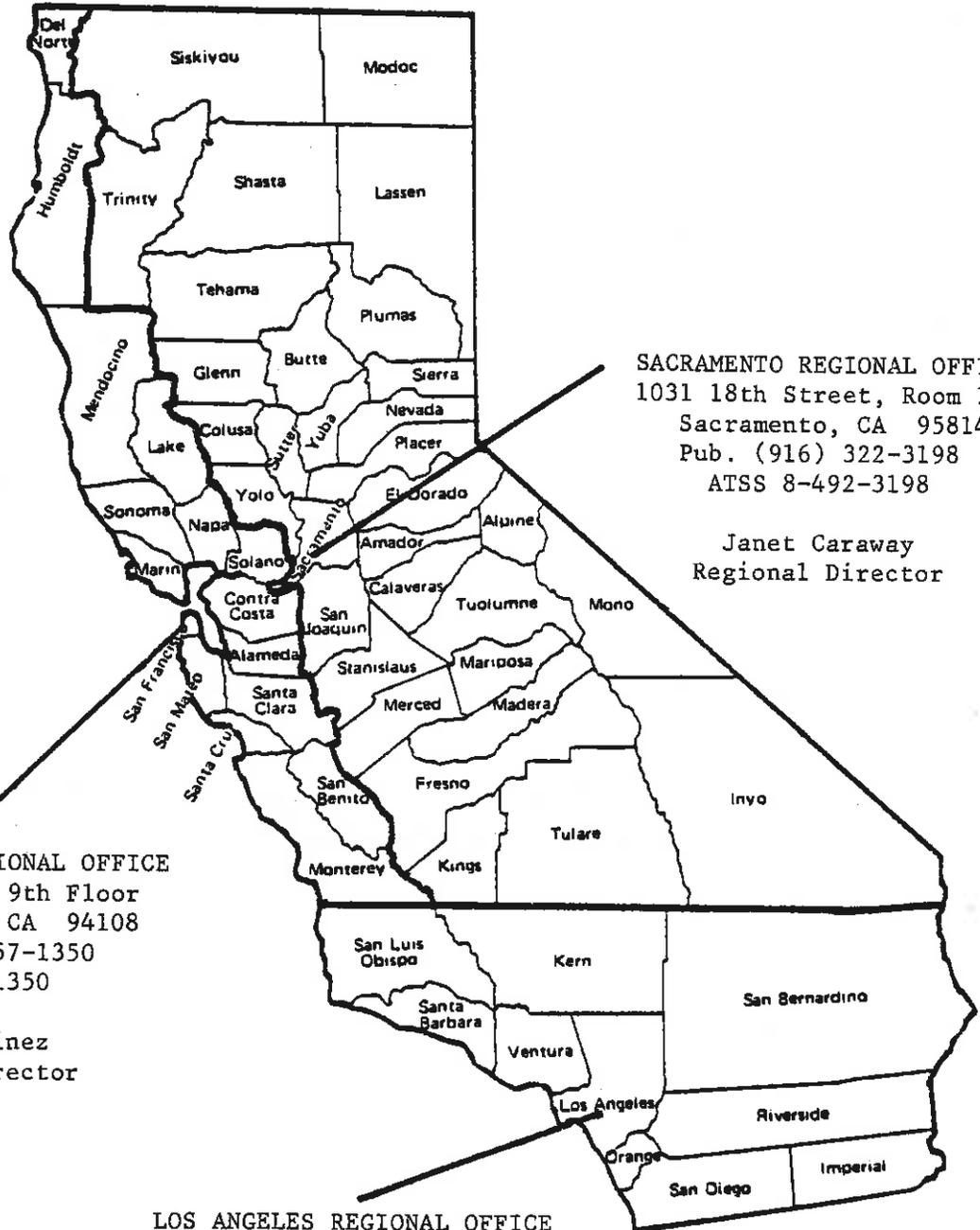
<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>TO BD</u>	<u>DISPOSITION - DATE</u>
206	San Ramon Valley USD v. San Ramon Valley TA	SF-CO-262	Intermittent strikes; bad faith bargaining	10/5/84	10/7/84	PERB obtained temporary restraining order 10/10/84
207	Nevada Union Teachers Assn. v. Nevada Jt. Union HSD	S-CE-818	Discriminatory dismissal of employee; unilateral change	10/10/84	10/15/84	Denied by letter 10/16/84
208	Upper Lake Union High School Teachers Assn.	SF-CE-955	Unilateral changes (working conditions)	10/16/84		Withdrawn 10/18/84
209	Irvine USD v. Irvine Teachers Assn.	LA-CO-306	Bad faith bargaining	10/19/84	10/25/84	Denied by letter 10/26/84
210	Napa Valley Faculty Assn. v. Napa Valley CCD	SF-CE-959	Bad faith bargaining	10/23/84	10/23/84	Withdrawn 10/29/84
211	Orange USD v. Orange Unified Ed. Assn.	LA-CO-310	Bad faith bargaining	11/14/84	--	Withdrawn 11/27/84
212	CAUSE v. Dept. of Personnel Admin. (General Services)	S-CE-241-S	Discriminatory reprimand	12/18/84	12/24/84	Denied by letter 12/27/84
213	Western Conference of Teamsters v. Dept. of Personnel Admin. (CALTRANS)	S-CE-242-S	Refusing to distribute survey forms	12/18/84 Refiled 12/24/74	- -	Withdrawn 12/19/84 Denied by letter 1/10/85
214	Link v. Antioch SD; Townley v. Mt. Diablo SD; Neely v. Fremont SD	SF-CE-494/ SF-CO-134, et al	Unlawful use of service fees	12/31/84		

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