



PUBLIC EMPLOYMENT RELATIONS BOARD

2013-2014 ANNUAL REPORT

October 15, 2014



EDMUND G. BROWN JR., GOVERNOR

STATE OF CALIFORNIA

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Board Members

**ANITA I. MARTINEZ
A. EUGENE HUGUENIN
PRISCILLA S. WINSLOW
ERIC R. BANKS**

TABLE OF CONTENTS

I. INTRODUCTION	
Letter from the Chair	1
II. OVERVIEW	3
Statutory Authority and Jurisdiction.....	3
PERB’s Purpose and Duties	4
III. LEGISLATION AND RULEMAKING	6
Legislation.....	6
Rulemaking	6
IV. CASE DISPOSITIONS	8
Unfair Practice Charge Processing	8
Dispute Resolutions and Settlements.....	8
Administrative Adjudication	8
Board Decisions	9
Litigation	9
Representation Activity	10
Mediation/Factfinding/Arbitration.....	10
State Mediation and Conciliation Service Division	10
Compliance.....	11

V. APPENDICES.....12

Introduction of Board Members and Administrators13

History of PERB’s Statutory Authority and Jurisdiction17

PERB’s Major Functions—Detailed Description19

PERB Organizational Chart.....23

Unfair Practice Charge Flowchart24

2013-2014 Unfair Practice Charge Statistics25

Unfair Practice Charge Filings26

Requests for Injunctive Relief27

2013-2014 Representation Case Activity.....28

Elections Conducted: 2013-2014.....29

2013-2014 Board Decisions.....30

2013-2014 Litigation Activity71

PUBLIC EMPLOYMENT RELATIONS BOARD

Board Office
1031 18th Street, Board Suite 204
Sacramento, CA 95811-4174
Telephone: (916) 323-8000
Fax: (916) 327-7960



October 15, 2014

Dear Members of the State Legislature and fellow Californians:

On behalf of the Public Employment Relations Board (PERB), I am pleased to submit PERB's 2013-2014 Annual Report. PERB is committed to conducting all agency activities with transparency and accountability, as reflected in the Report. The Report describes PERB's statutory authority and jurisdiction, and its purpose and duties. The Report also highlights legislative changes to the statutory schemes and PERB's promulgation of implementing regulations. The Report further provides case disposition achievements for the Board's different divisions. While the statistics show considerable work undertaken in the last fiscal year, each division continues to make a concerted effort to reduce the backlog of older cases in order to provide constituents with timely and meaningful case dispositions.

The eight public sector collective bargaining statutes administered by PERB guarantee the right of public employees to organize and bargain collectively and to participate in the activities of employee organizations, and to refrain from such activities. The different statutory schemes protect employees, employee organizations and employers alike from unfair practices, with PERB providing the impartial forum for the resolution of their disputes.

A sampling of activity during the 2013-2014 fiscal year includes:

- 949 unfair practice charges filed
- 114 representation petitions filed
- 116 mediation requests filed pursuant to Educational Employment Relations Act/Higher Education Employer-Employee Relations Act/Ralph C. Dills Act
- 460 unfair practice charges withdrawn/settled at various stages of the process
- 226 days of unfair practice informal settlement conferences conducted by regional attorneys
- 69 formal hearings completed by administrative law judges
- 76 proposed decisions issued by administrative law judges
- 918 cases filed with State Mediation and Conciliation Service Division
- 87 decisions issued and 25 injunctive relief requests determined by the Board itself

I invite you to explore the Report for more detailed information about PERB's 2013-2014 activities and case dispositions.

October 15, 2014
Page Two

All of us at PERB hope that you find this Report informative. Please visit our website at www.perb.ca.gov or contact PERB at (916) 323-8000 for any further information.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Anita I. Martinez". The signature is fluid and cursive, with a large loop at the end.

Anita I. Martinez
Chair

II. OVERVIEW

Statutory Authority and Jurisdiction

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers eight collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties. The statutes administered by PERB are:

- (1) Educational Employment Relations Act (EERA) (Government Code §3540 et seq.)—California's public schools (K-12) and community colleges;
- (2) State Employer-Employee Relations Act (Dills Act) (Government Code §3512 et seq.)—State employees;
- (3) Higher Education Employer-Employee Relations Act (HEERA) (Government Code §3560 et seq.)—California State University and University of California systems and Hastings College of Law;
- (4) Meyers-Milias-Brown Act (MMBA) (Government Code §3500 et seq.)—California's city, county, and local special district employers and employees (excludes specified peace officers, management employees, and the City and County of Los Angeles);
- (5) Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Public Utilities Code §99560 et seq.),
- (6) Trial Court Employment Protection and Governance Act (Trial Court Act) (Government Code §71600 et seq.);
- (7) Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Government Code §71800 et seq.); and
- (8) In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA) (Government Code §110000 et seq.).

PERB's history regarding its statutory authority and jurisdiction is included in the Appendices, beginning at page 17.

PERB's Purpose and Duties

The Board

The Board itself is composed of up to five Members appointed by the Governor and subject to confirmation by the State Senate. Board Members are appointed to up to five-year terms, with the term of one Member expiring at the end of each calendar year. In addition to the overall responsibility for administering the eight statutes, the Board acts as an appellate body to hear challenges to proposed decisions issued by Board agents. Decisions of the Board itself may be appealed under certain circumstances to the State appellate and superior courts. The Board, through its actions and those of its agents, is empowered to:

- conduct elections to determine whether employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- remedy unfair practices, whether committed by employers or employee organizations;
- investigate impasse requests that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- ensure that the public receives accurate information and has the opportunity to register opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- interpret and protect the rights and responsibilities of employers, employees, and employee organizations under the Acts;
- bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- conduct research and training programs related to public sector employer-employee relations; and
- take such other action as the Board deems necessary to effectuate the purposes of the Acts it administers.

A summary of the Board's 2013-2014 decisions is included in the Appendices, beginning at page 30.

Major PERB Functions

The major functions of PERB involve: (1) the investigation and adjudication of unfair practice charges; (2) the administration of the representation process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (3) the appeals of Board agent determinations to the Board itself; (4) the legal functions performed by the Office of the General Counsel; and (5) the mediation services provided to the public and some private constituents by the State Mediation and Conciliation Service (SMCS).

A detailed description of PERB's major functions is included in the Appendices, beginning at page 19.

Other PERB Functions and Activities

Information Requests

As California's expert administrative agency in the area of public sector collective bargaining, PERB is consulted by similar agencies from other states concerning its policies, regulations, and formal decisions. Information requests from the Legislature and the general public are also received and processed.

Administrative Services

The Division of Administration provides a full range of services to PERB. These include administration of human resources, budget development and maintenance, accounting, information technology, procurement, security, and business services. Responsibilities include completion of numerous mandatory reports, policy and procedure development and application, coordination of audits, and ongoing communication with the State control agencies.

III. LEGISLATION AND RULEMAKING

Legislation

Assembly Bill (AB) 383 (Chapter 76, Statutes of 2013), a “maintenance of the codes” bill, made non-substantive changes to Ralph C. Dills Act (Dills Act) Government Code section 3513.

Assembly Bill 537 (Chapter 785, Statutes of 2013) included amendments to the Meyers-Milias-Brown Act (MMBA) to require governing bodies of public agencies to vote to accept or reject tentative agreements within 30 days of the date the agreements are first considered. The bill also provided that an arbitration agreement contained in a memorandum of understanding is enforceable in court, and that an order to compel arbitration shall not be refused because the conduct in question arguably constitutes an unfair practice before PERB.

Assembly Bill 1181 (Chapter 305, Statutes of 2013) amended the MMBA to require public agencies to give reasonable time off without loss of compensation to a reasonable number of employee representatives to participate in matters before PERB, and to testify or appear as the designated representative of the employee organization in matters before a personnel or merit commission, in addition to the existing provision for time spent formally meeting and conferring.

Assembly Bill 1317 (Chapter 352, Statutes of 2013) enacted statutory changes to reflect changes made by the Governors Reorganization Plan No. 2 (GRP 2). Pursuant to GRP 2, PERB is in the Labor and Workforce Development Agency.

Rulemaking

General Regulation Changes

In fiscal year 2012-2013 the Board proposed regulations that included: (1) filing and service of documents; (2) maintenance of a list of arbitrators; (3) appointment of factfinding chairpersons under the HEERA; (4) Board decisions; (5) Board policy on expediting cases; (6) unfair practice charge processing; and (7) recognition petition procedures under the MMBA. These regulation changes became effective July 1, 2013.

Senate Bill 1038 (Chapter 46, Statutes of 2012) - Transfer of SMCS to PERB

In fiscal year 2012-2013 the Board developed rules, pursuant to Senate Bill 1038 (Chapter 46, Statutes of 2012), regarding the transfer of the State Mediation and Conciliation Service (SMCS) to PERB from the Department of Industrial Relations (DIR). These regulation changes became effective July 1, 2013.

Appeals from MMBA Factfinding Sufficiency Determinations

In fiscal year 2012-2013, the Board proposed regulations concerning proposed changes to the appealability of a Board agent’s determination of the sufficiency of a factfinding request made

pursuant to the MMBA. This change deletes the regulation text that prohibits an appeal to the Board of a determination of the sufficiency of a factfinding request made pursuant to the MMBA. These regulations became effective October 1, 2013.

Representation and Agency Shop Elections Conducted by SMCS

In fiscal year 2012-2013, the Board proposed regulations concerning the adoption of regulations providing for and describing the election services and processes related thereto for representation and agency shop elections conducted by the SMCS under the local rules of an MMBA, Trial Court Act, or Court Interpreter Act employer. These regulations became effective October 1, 2013.

In-Home Supportive Services Employer-Employee Relations Act, Adoption of Regulatory Scheme

With the enactment of Senate Bill 1036 (Chapter 45, Statutes of 2012), as amended by Assembly Bill 1471 (Chapter 439, Statutes of 2012), PERB is responsible for the administration and enforcement of the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA). In order to address these responsibilities, PERB conducted an emergency rulemaking process, which included: participation from interested persons, public hearings, a written comment period, and Board approval. The culmination of that process was PERB's transmission of the emergency regulation text directly to the Secretary of State for filing on December 6, 2013. Upon filing with the Secretary of State, the emergency regulations became effective, commencing a 180-day period for PERB to substantially comply with and complete the Certificate of Compliance rulemaking process. Concurrent to the filing with the Secretary of State, PERB transmitted the emergency regulation text to Office of Administrative Law in order to ensure that the California Code of Regulations was appropriately updated.

On February 13, 2014, the Board authorized the commencement of the Certificate of Compliance rulemaking process in order to develop permanent IHSSEERA regulations. The Board provided to interested persons a written comment period, which closed on April 14, 2014. The Board conducted a public hearing on April 17, 2014, and authorized PERB to continue with this rulemaking action. On May 29, 2014, PERB filed its Certificate of Compliance Rulemaking File with OAL as a File & Print Only filing. On July 10, 2014, OAL approved the rulemaking file and submitted the file to the Secretary of State, effective on filing.

IV. CASE DISPOSITIONS

Unfair Practice Charge Processing

The number of unfair practice charges filed with PERB generally has increased as a result of the changes in PERB's jurisdiction since 2001. In 2013-2014, 949¹ new charges were filed.

Dispute Resolutions and Settlements

PERB stresses the importance of voluntary dispute resolution. This emphasis begins with the first step of the unfair practice charge process—the investigation. During this step of the process in fiscal year 2013-2014, 249 cases (34% of 725 charge investigations completed) were withdrawn, many through informal resolution by the parties. PERB staff also conducted 226 days of settlement conferences for cases in which a complaint was issued. In total, 211 cases (out of a total of 263), were withdrawn at either the informal conference stage or thereafter, but before a formal hearing was conducted.

PERB's high success rate in mediating voluntary settlements is, in part, attributable to the tremendous skill and efforts of its staff, but also requires commitment by the parties involved to look for solutions to problems. As the efforts of PERB staff demonstrate, voluntary settlements are the most efficient and timely way of resolving disputes, as well as an opportunity for the parties to improve their collective bargaining relationships. PERB looks forward to continuing this commitment to voluntary dispute resolution.

Administrative Adjudication

Complaints that are not resolved through mediation are sent to the Division of Administrative Law (Division) for an evidentiary hearing before an Administrative Law Judge (ALJ).

In fiscal year 2013-2014, the Division had seven ALJs conducting hearings and writing proposed decisions for most of the fiscal year. On April 1, 2014, the Division added an eighth ALJ in the Glendale Office who began hearing cases and writing proposed decisions in May 2014.

The Division's production of proposed decisions issued in fiscal year 2013-2014 (76 proposed decisions) was the same as fiscal year 2012-2013 and greater than fiscal year 2011-2012 (61 proposed decisions). The number of proposed decisions issued in fiscal years 2012-2013 and 2013-2014 was greater than known recorded highs back to Fiscal Year 1986-1987 when ten ALJs issued 74 proposed decisions.

For the first time in a number of fiscal years, the number of proposed decisions issued (76 proposed decisions) was greater than the workload of hearings completed (69 formal hearings) as the Division reduced the backlog of pending proposed decisions to write. In the

¹ (173 Unfair Practice Charges were filed under HEERA by the same individual on behalf of himself and/or other University of California employees regarding agency fee issues.)

immediate prior fiscal years, the number of formal hearings completed was always greater than the number of proposed decisions issued. In fiscal year 2012-2013, the number of formal hearing completed to proposed decisions issued was 86 formal hearings completed to 76 proposed decisions issued. In fiscal year 2011-2012, the number was 89 formal hearings completed to 61 proposed decisions issued, and in fiscal year 2010-2011, the number was 43 formal hearings completed to 38 proposed decisions issued. The backlog of the number of proposed decisions to write grew due to the rapid increase in caseload assignments since fiscal year 2010-2011, when the number of cases assigned grew to 192 total cases as compared to the previous fiscal year in which 133 total cases were assigned: a 44% increase in the Division's assigned caseload. Although the caseload grew, the number of ALJs assigned to cover the increase did not grow, which created a backlog of proposed decisions to write. The addition of an eighth ALJ should help the Division further reduce, if not eliminate, the backlog in fiscal year 2014-2015.

Over the last two fiscal years, the regional distribution of the caseload has been focused primarily in the PERB Glendale office. Slightly over 50% of all PERB unfair practice hearings have been held in the Glendale office, an increase from fiscal years 2010-2011 and 2011-2012.

Board Decisions

Proposed decisions issued by PERB's ALJs and Board agent dismissals of unfair practice charges may be appealed to the Board itself. During the 2013-2014 fiscal year the Board issued 87 decisions as compared to 51 during the 2012-2013 fiscal year and also considered 25 requests for injunctive relief as compared to 17 during the 2012-2013 fiscal year. (A summary of injunctive relief requests filed compared to prior years is included in the Appendices at page 27.)

Litigation

Fiscal year 2013-2014 continued the recent trend of substantial annual increases in litigation projects² for PERB. Specifically, 254 litigation-related assignments were completed by PERB attorneys (compared to approximately 146 last fiscal year, 139 the year before that, and 93 the year before that). A total of 21 litigation cases, including new and continuing matters, were handled during the 2013-2014 fiscal year (compared to 26 last fiscal year and 35 the year before). A summary of these cases is included in the Appendices, beginning at page 71.

² PERB's court litigation primarily involves: (1) injunctive relief requests to immediately stop unlawful actions at the superior court level; (2) defending decisions of the Board at the appellate level; and (3) defending the Board's jurisdiction in all courts, including the California and United States Supreme courts. Litigation consists of preparing legal memoranda, court motions, points and authorities, briefs, stipulations, judgments, orders, etc., as well as making court appearances.

Representation Activity

For fiscal year 2013-2014, 114 new representation petitions were filed, an increase of 14 cases when compared to the prior year. The fiscal year total includes 32 recognition petitions, 9 severance requests, 21 decertification petitions, 7 requests for amendment of certification, 44 unit modification petitions, and 1 organizational security petition.

Election activity decreased, with 7 elections conducted compared to 12 in the prior year. The 7 elections conducted by PERB during the fiscal year included 7 decertification elections. More than 971 employees were eligible to participate in these elections, in bargaining units ranging in size from 12 to 451.

Mediation/Factfinding/Arbitration

During the 2013-2014 fiscal year PERB received 116 mediation requests under EERA/HEERA/Dills. The number of mediation requests under EERA/HEERA decreased slightly over the prior year (134 such requests were filed in 2012-2013). Of those requests, 92 were approved for mediation. Subsequently, 26 requests were approved for factfinding.

During this same period of time, 65 factfinding requests were filed under the MMBA. Of those matters, 53 requests were subsequently approved for factfinding. The number of factfinding requests under the MMBA increased slightly over the prior year (62 such requests were filed in 2012-2013).

State Mediation and Conciliation Service Division

SMCS has fully completed its integration into PERB. While still maintaining a firewall between the functions of mediation and adjudication, efficiencies have been gained through the staff relationships and proximity between SMCS and the Office of the General Counsel.

Northern California Presiding Conciliator Steve Pearl retired, and Kenneth Glenn was promoted into the position effective June 1, 2014. Three vacant Conciliator (mediator) positions were filled mid-year. The vacancy created by Kenneth Glenn's promotion is expected to be filled in December 2014 or January 2015 through a new recruitment.

An updated case management system is being tested for an anticipated full roll-out by the end of the 2014 calendar year. It is expected that a second phase of development and fine-tuning will be undertaken in 2015 after SMCS staff have had time to work with it.

SMCS received a total of 918 new cases between July 1, 2013 and June 30, 2014, and closed 883. The new Local Control Funding Formula (LCFF) for public schools' funding may have delayed or extended contract negotiations processes in the schools, but the numbers of MMBA impasses were also down from previous years. EERA/HEERA contract impasses accounted for 103 of the 194 total contract impasses mediated during the year. The balance of the cases included: 564 grievances, including disciplinary appeals, 39 representation cases (including

consent elections), 29 workplace conflict cases, 2 training and facilitation assignments, 15 Transit disputes, 6 Courts' disputes, 1 State dispute, 24 City/County of Los Angeles disputes, and 44 miscellaneous cases related to collateral duties or issues that could not be categorized within the established categories (including education, outreach, and Public Utilities Code-jurisdiction disputes).

Compliance

PERB staff commenced compliance proceedings regarding 29 unfair practice cases, in which a final decision resulted in a finding of a violation of the applicable statute. This is a slight drop in activity over the prior year (32 compliance proceedings were initiated in 2012-2013).

V. APPENDICES

Introduction of Board Members and Administrators

Board Members

Anita I. Martinez has been employed with the Public Employment Relations Board (PERB or Board) since 1976. In May 2011, Governor Edmund G. Brown Jr. appointed her to a three-year term as Member and Chair of the Board. Ms. Martinez was re-appointed to a new five-year term in January 2014. Prior to her appointment, Ms. Martinez served as the PERB San Francisco Regional Director since 1982. Her duties included supervision of the regional office, investigation of representation cases and unfair practice charges, and conducting settlement conferences, representation hearings, and elections. Before joining PERB, Ms. Martinez worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender treatise, California Public Sector Labor Relations, she has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Ms. Martinez received her B.A. in Political Science from the University of San Francisco. Ms. Martinez's term expires in 2018.

A. Eugene Huguenin was appointed to the Board by Governor Edmund G. Brown Jr. in May 2011. Prior to his appointment, Mr. Huguenin practiced labor, employment, and education law in the Sacramento-area. He advised and represented public employees and their organizations in judicial and administrative proceedings, and consulted on educational policy and procedures. From 2005 to 2009, he served as a commissioner on the Fair Political Practices Commission.

Before relocating to Sacramento in 2000, Mr. Huguenin practiced labor and education law in Los Angeles and Burlingame for more than 20 years, advising and representing the California Teachers Association (CTA) and its locals throughout the state. From 1973 to 1979, Mr. Huguenin consulted for CTA on labor relations issues. Prior to joining CTA, he was employed in the Seattle area by a local teachers association and a national accounting firm.

Mr. Huguenin is a member of the Los Angeles County Bar Association, the State Bar of California, and the American Bar Association. He received a Bachelor's degree in Business Administration in 1966, and a Juris Doctor in 1969, from the University of Washington. Mr. Huguenin's term expires in 2015.

Priscilla S. Winslow was appointed to the Board by Governor Edmund G. Brown Jr. on February 1, 2013. She previously served as Legal Advisor to Board Member A. Eugene Huguenin beginning July 2012.

Prior to coming to PERB, Ms. Winslow was the Assistant Chief Counsel of the California Teachers Association where she worked from 1996 to 2012, representing and advising local chapters and CTA on a variety of labor and education law matters.

Prior to her employment at CTA, Ms. Winslow maintained a private law practice in Oakland and San Jose representing individuals and public sector unions in employment and labor law

matters. In addition to practicing law, Ms. Winslow taught constitutional law at New College of California, School of Law as an adjunct professor from 1984 to 1993.

From 1979 to 1983 Ms. Winslow served as Legal Advisor to PERB Chairman Harry Gluck.

Ms. Winslow is a member of the Labor & Employment Law Section of the State Bar of California and served as Chair of that section in 2000-2001. She is also a member of the American Constitution Society. She received a Bachelor of Arts degree in History and Philosophy from the University of California, Santa Cruz, and a Juris Doctor degree from the University of California, Davis. Ms. Winslow's term expires in 2017.

Eric R. Banks was appointed to the Board by Governor Edmund G. Brown Jr. on February 1, 2013. Prior to his appointment, Mr. Banks worked at Ten Page Memo, LLC as a partner providing organizational consulting services. He served in multiple positions at the Service Employees International Union, Local 221 from 2001 to 2013, including Advisor to the President and Director of Government and Community Relations, representing public employees in San Diego and Imperial Counties. Prior to his work at Local 221, Mr. Banks was Policy Associate for State Government Affairs at the New York AIDS Coalition, in Albany, New York, from 2000 to 2001. He worked in multiple positions at the Southern Tier AIDS Program, in Upstate New York from 1993 to 2000, including Director of Client Services, Assistant Director of Client Services, and Case Manager. Mr. Banks received his Bachelor's degree in 1993 from Binghamton University. Mr. Banks' term expires in 2014.

Legal Advisors

Sarah L. Cohen was appointed as Legal Advisor to Board Chair Anita I. Martinez in July 2011. Previously, Ms. Cohen served as Industrial Relations Counsel IV in the Office of the Director - Legal Unit at the Department of Industrial Relations, where she worked from 1994 to 2011. Prior to entering state service, Ms. Cohen was a legal services attorney in the Employment Law Office at the Legal Aid Foundation of Los Angeles from 1988 to 1994. Ms. Cohen received her Juris Doctor degree from the University of California, Hastings College of the Law. Ms. Cohen also holds a Bachelor of Arts degree from the University of California, Los Angeles.

Maximiliano C. Garde was appointed as Legal Advisor to Member A. Eugene Huguenin in June 2013. Previously, Mr. Garde had served as an Attorney at La Raza Centro Legal in San Francisco and prior to that as a Law Clerk with the California Teachers Association in Burlingame. Mr. Garde received his Juris Doctor from the University of California, Hastings College of the Law and received a Bachelor of Arts degree in Sociology from the University of California, Berkeley.

Scott Miller was appointed as Legal Advisor to Board Member Eric R. Banks in May 2013. Mr. Miller is a 2007 graduate of the University of California, Los Angeles School of Law's Public Interest Law and Policy Program and, from 2008-2013, practiced labor and employment law as an associate attorney at Gilbert & Sackman. He holds a Bachelor of Arts in English literature and a Masters in history from Kansas State University.

Russell Naymark has served as Legal Advisor to Board Member Priscilla S. Winslow since November 2013.

Prior to coming to PERB, Mr. Naymark was an associate at the law firm of Weinberg, Roger & Rosenfeld, where he worked in the Sacramento office from 2011 to 2013, representing and advising various public and private sector unions on a variety of labor law matters.

Prior to his employment at the Weinberg firm, Mr. Naymark served as Assistant General Counsel and Counsel for SAG-AFTRA (formerly Screen Actors Guild) in Los Angeles from 2005 to 2011, where he represented actors and other screen talent.

Prior to his employment with SAG, Mr. Naymark served as District Counsel for Communication Workers of America, AFL-CIO, District Nine in Sacramento from 2001-2005, where he represented employees predominately in the telecommunications and cable industries.

Mr. Naymark is a member of the Labor & Employment Law Section of the State Bar of California. He received a Bachelor of Arts degree in Political Economy from Princeton University, and a Juris Doctor degree from the University of California, Davis.

Administrators

M. Suzanne Murphy was appointed PERB General Counsel in May 2011. Before joining PERB, she was the executive and legal director for Worksafe, a non-profit organization dedicated to promoting workplace health and safety, from 2008 to 2009. She was legal counsel for the California Nurses Association from 2006 to 2007, and an appellate and litigation attorney with Weinberg, Roger & Rosenfeld from 2003 to 2006. Ms. Murphy also worked for the California Courts, where she was managing attorney in the Judicial Council's Center for Families, Children & the Courts from 2002 to 2003; supervising attorney in the Rules and Projects Unit in the Office of the General Counsel from 2000 to 2002; and a senior research attorney to the Honorable Michael J. Phelan and Patricia K. Sepulveda of the California Court of Appeal for the First Appellate District from 1993 to 2000. Earlier in her legal career, Ms. Murphy was an associate in the labor and employment group at Heller, Ehrman, White & McAuliffe from 1992 to 1993, and in the business and employment litigation groups at Cooley, Godward, Castro, Huddleston & Tatum from 1989 to 1991. She also served as a law clerk to the Honorable Cynthia Holcomb Hall of the U.S. Court of Appeals for the Ninth Circuit from 1988 to 1989 and from 2009 to 2011. Ms. Murphy received her B.A. degree in Human Biology, with distinction, from Stanford University in 1975. She received her Juris Doctor degree from Boalt Hall School of Law in 1988, and was admitted to the Order of the Coif. Ms. Murphy left PERB in May 2014.

Wendi L. Ross was designated Acting General Counsel in May 2014. She joined PERB as Deputy General Counsel in April 2007 and has more than 25 years of experience practicing labor and employment law. Ms. Ross was employed for over ten years by the State of California, Department of Human Resources as a Labor Relations Counsel. Prior to that position, she was employed as an associate attorney with the law firms of Pinnell & Kingsley and Thierman, Cook, Brown & Prager. Ms. Ross received her Bachelor of Arts degree from

University of California, Davis and her Juris Doctor degree from University of the Pacific, McGeorge School of Law. She has served as Chair of the Sacramento County Labor and Employment Law Section and previously taught an arbitration course through the University of California, Davis Extension.

Shawn P. Cloughesy is the Chief Administrative Law Judge for PERB. He has 20 years' experience as an Administrative Law Judge with two state agencies (PERB and the State Personnel Board) conducting hundreds of hearings involving public sector labor and employment matters. Prior to being employed as an administrative law judge, Mr. Cloughesy was a Supervising Attorney for the California Correctional Peace Officers Association, practicing and supervising attorneys who practiced before PERB and other agencies. Mr. Cloughesy graduated from McGeorge School of Law in 1985.

Loretta van der Pol is the Chief of the State Mediation and Conciliation Service Division. She joined the agency in March 2010, after working for eight years as a Senior Employee Relations Manager for the Orange County Employees Association, an independent labor union. Prior to working for the union, Ms. van der Pol worked as an analyst, supervisor and mid-level manager for twenty years. Nearly half of those years were spent in the line organizations of electric and water utilities, and in facilities maintenance and operations. The amount of labor relations work involved in those positions lead to her full transition into human resources. She has several years of experience as chief negotiator in labor negotiations and advocacy on both sides of the table. Most of her professional working life has also involved providing workplace training in conflict management, interest-based bargaining, employee performance management, and statutory compliance requirements. She also facilitates interest-based contract negotiations and workplace interpersonal conflict intervention. Ms. van der Pol earned her undergraduate degree in Social Sciences from Chapman University, and is currently working on a Master of Public Administration degree at California State University, Fullerton.

Mary Ann Aguayo joined PERB in January 2014 as its Chief Administrative Officer. Her state service spans 27 years in various State agencies in administrative and line capacities, most recently serving as the Chief Administrative Officer for the Department of Water Resources' State Water Project Operations. Ms. Aguayo holds a Bachelor of Science degree in Business Administration with a concentration in Human Resources Management from California State University Sacramento, is a graduate of the University of California, Davis Executive Program, and in January 2014 achieved her certification as a Senior Professional in Human Resources.

History of PERB's Statutory Authority and Jurisdiction

Authored by State Senator Albert S. Rodda, EERA of 1976 establishes collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) establishes collective bargaining for State employees; and HEERA, authored by Assemblyman Howard Berman, extends the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the MMBA of 1968, which established collective bargaining for California's city, county, and local special district employers and employees. PERB's jurisdiction over the MMBA excludes specified peace officers, management employees, and the City and County of Los Angeles.

On January 1, 2004, PERB's jurisdiction was expanded to include TEERA, establishing collective bargaining for supervisory employees of the Los Angeles County Metropolitan Transportation Authority.

Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Act of 2000 and the Court Interpreter Act of 2002.

PERB's jurisdiction and responsibilities were changed in late June 2012 by the enactment of Senate Bill 1036 which enacted the relevant part of the IHSSEERA. The IHSSEERA is within the jurisdiction of PERB to administer and enforce, with respect to both unfair practices and representation issues. The IHSSEERA will initially cover only eight counties: Alameda, Los Angeles, Orange, Riverside, San Bernardino, Santa Clara, San Diego, and San Mateo. The enactment of the IHSSEERA brings the Los Angeles County providers under PERB's jurisdiction for the first time.

Since 2001, over two million public sector employees and their employers have been included within the jurisdiction of the collective bargaining statutory schemes administered by PERB. The approximate number of employees under these statutes is as follows: 675,000 work for California's public education system from pre-kindergarten through and including the community college level; 237,000 work for the State of California; 100,000 work for the University of California, California State University, and Hastings College of Law; 366,000 work under the auspices of the IHSSEERA statewide; and the remaining public employees work for California's cities, counties, special districts, trial courts, and the Los Angeles County Metropolitan Transportation Authority.

Effective July 1, 2012, Senate Bill 1038 repealed and recast existing provisions of law establishing the State Mediation and Conciliation Service (SMCS) within the Department of Industrial Relations. The legislation placed SMCS within PERB, and vested PERB with all of the powers, duties, purposes, responsibilities, and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through SMCS.

Governor's Reorganization Plan 2, submitted to the Legislature on May 3, 2012, stated that PERB is in the Labor and Workforce Development Agency. Pursuant to Government Code section 12080.5, GRP 2 became effective on July 3, 2012.

PERB's Major Functions—Detailed Description

Unfair Practice Charges

The investigation and resolution of unfair practice charges is the major function performed by PERB. Unfair practice charges may be filed with PERB by an employer, employee organization, or employee. Members of the public may also file a charge, but only concerning alleged violations of public notice requirements under the Dills Act, EERA, HEERA, and TEERA. Unfair practice charges can be filed online, as well as by mail, facsimile, or personal delivery.

An unfair practice charge alleges an employer or employee organization engaged in conduct that is unlawful under one of the statutory schemes administered by PERB. Examples of unlawful employer conduct are: refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; and promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; and failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is reviewed by a Board agent to determine whether a prima facie violation of an applicable statute has been established. A charging party establishes a prima facie case by alleging sufficient facts to establish that a violation of the Dills Act, EERA, HEERA, MMBA, TEERA, Trial Court Act, Court Interpreter Act, or IHSSEERA has occurred. If the charge fails to state a prima facie case, the Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is given time to either amend or withdraw the charge. If the charge is not amended or withdrawn, it is dismissed. The charging party may appeal the dismissal to the Board itself. Under regulations adopted effective July 1, 2013, the Board can designate whether or not its decision in these cases will be precedential or non-precedential.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent may file an answer to the complaint.

Once a complaint is issued, usually another Board agent is assigned to the case and calls the parties together for an informal settlement conference. The conference usually is held within 60 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB ALJ is scheduled. A hearing generally occurs within 90 to 120 days from the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party may appeal the proposed decision to the Board itself. The Board itself may affirm, modify, reverse, or remand the proposed decision.

Proposed decisions that are not appealed to the Board itself are binding upon the parties to the case, but may not be cited as precedent in other cases before the Board.

Final decisions of the Board itself are both binding on the parties to a particular case and precedential, except as otherwise designated by a majority of the Board members issuing dismissal decisions pursuant to PERB Regulation 32320, subdivision (d). Text and headnotes for all but non-precedential Board decisions are available on our website (www.perb.ca.gov) or by contacting PERB. On the PERB website, interested parties can also sign-up for electronic notification of new Board decisions.

Representation

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications that have an internal and occupational community of interest. In most situations, if only one petition is filed, with majority support, and the parties agree on the description of the bargaining unit, the employer must grant recognition to the employee organization as the exclusive representative of the bargaining unit employees. If two or more employee organizations are competing for representational rights of an appropriate bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent may hold an informal settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation, and in some cases a hearing, and issues an administrative determination or a proposed decision. That determination or decision sets forth the appropriate bargaining unit, or modification of that unit, based upon statutory unit-determination criteria and appropriate case law. Once an initial bargaining unit has been established, PERB may conduct a representation election, unless the applicable statute and the facts of the case require the employer to grant recognition to an employee organization as the exclusive representative. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

PERB staff also assists parties in reaching negotiated agreements through the mediation process provided in EERA, HEERA, and the Dills Act, and through the factfinding process provided under EERA, HEERA, and the MMBA.

If the parties are unable to reach an agreement during negotiations under EERA, HEERA, or the Dills Act, either party may declare an impasse and request the appointment of a mediator. A Board agent contacts both parties to determine if they have reached a point in their negotiations that further meetings without the assistance of a mediator would be futile. Once PERB has determined that impasse exists, a SMCS mediator assists the parties in reaching an agreement. If settlement is not reached during mediation under EERA or HEERA, either party may request the initiation of statutory factfinding procedures. PERB appoints the factfinding chairperson who, with representatives of the employer and the employee organization, makes findings of fact and advisory recommendations to the parties concerning settlement terms.

If the parties reach impasse during negotiations under the MMBA, and a settlement is not achieved through impasse dispute resolution procedures authorized by applicable local rules, only the employee organization may request the initiation of statutory factfinding procedures under the MMBA. If factfinding is requested, PERB appoints the factfinding chairperson who, with representatives of the employer and the employee organization, makes findings of fact and advisory recommendations to the parties concerning settlement terms.

A summary of PERB's 2013-2014 representation activity is on page 28.

Appeals Office

The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. The office maintains case files, issues decisions rendered, and prepares administrative records for litigation filed in California's appellate courts. The Appeals Office is the main contact with parties and their representatives while cases are pending before the Board itself.

Office of the General Counsel

The legal representation function of the Office of the General Counsel includes:

- defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in the State appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision, order, or ruling, or with a subpoena issued by PERB;
- seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- defending the jurisdiction of the Board, submitting motions, pleadings, and amicus curiae briefs, and appearing in cases in which the Board has a special interest.

A summary of PERB's 2013-2014 litigation activity begins at page 71.

State Mediation and Conciliation Service

This is a non-adjudicatory function within PERB that performs mediation and related work specific to the promotion of harmonious labor-management relations in both the public and private sectors of the state, including:

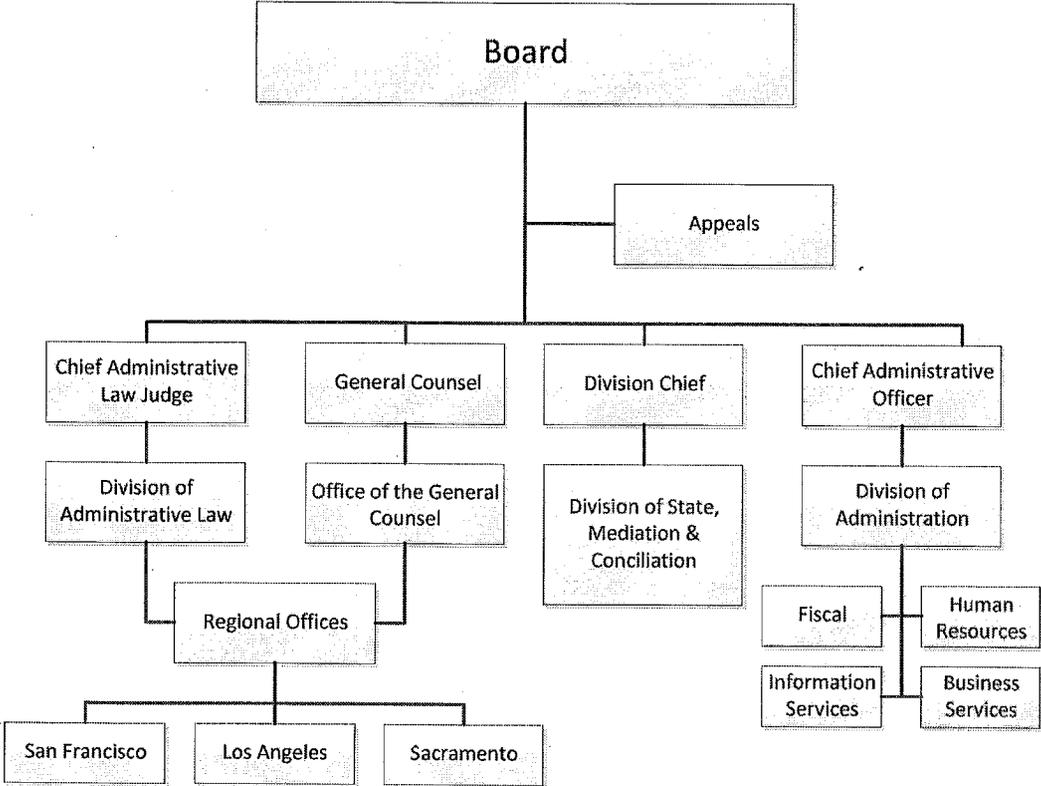
- Mediation to end strikes and other severe job actions;

- Mediation of initial and successor collective bargaining agreement disputes;
- Mediation of grievances arising from alleged violations of collective bargaining agreements and other local rules;
- Supervision of elections for decertification/certification of labor organizations, agency shop, and others;
- Training and facilitation in interest-based bargaining, implementing effective joint labor-management committees, and resolving conflict in the workplace;
- Mediation of interpersonal or group-to-group conflict in the workplace; and
- Providing general education and information about the value of mediation in dispute resolution.

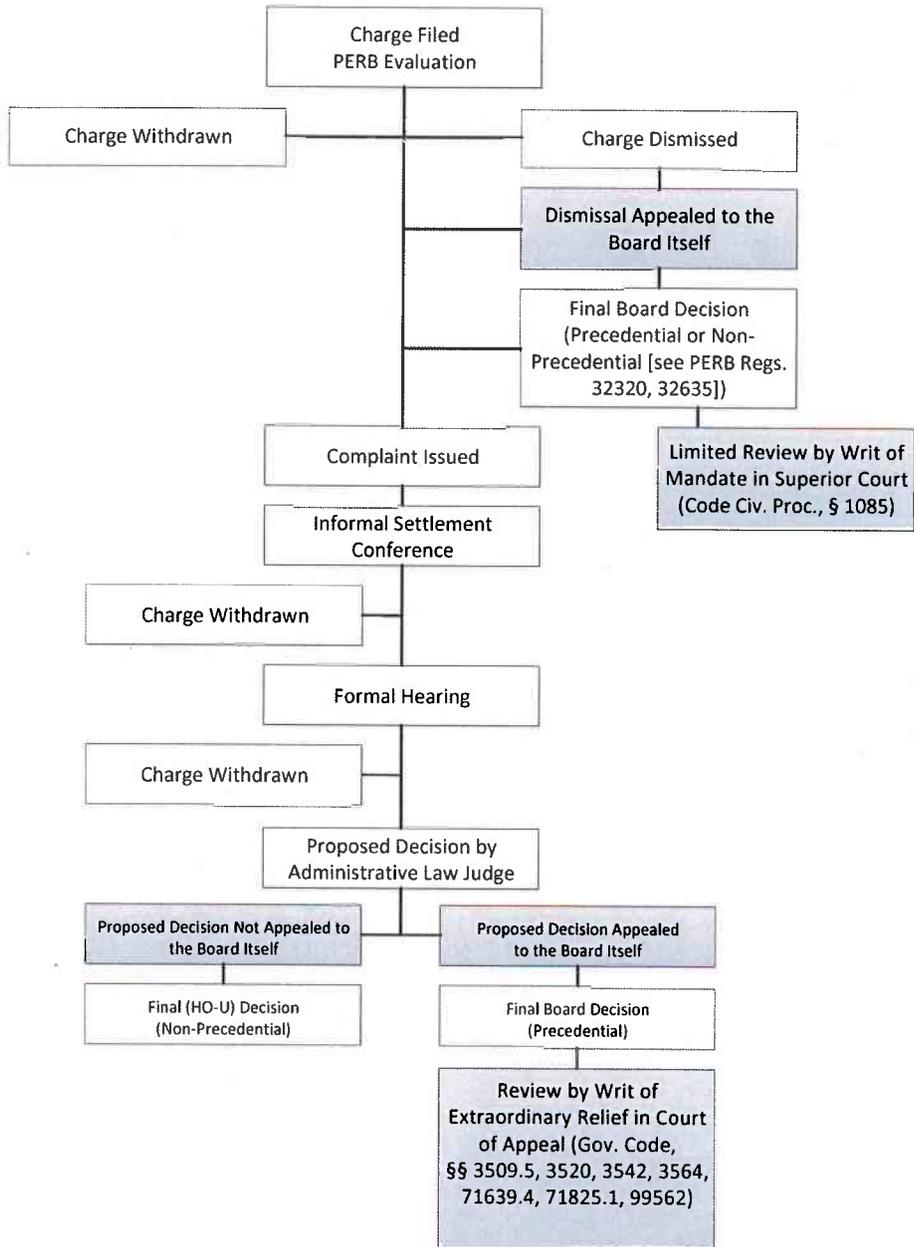
SMCS mediates under the provisions of all of the California public and quasi-public sector employment statutes, as well as the National Labor Relations Act.

Public Employment Relations Board

Organizational Chart



Unfair Practice Charge Flow Chart



2013-2014 UNFAIR PRACTICE CHARGE STATISTICS

I. Unfair Practice Charges Filed by Region

Region	Total
Sacramento	371
San Francisco	291
Los Angeles	287
Total	949

II. Unfair Practice Charges Filed by Act

Act	Total
Dills Act	53
EERA	290
HEERA	276*
MMBA	303
TEERA	3
Trial Court Act	18
Court Interpreter Act	1
Non-Jurisdictional	5
Total	949

III. Prior Year Workload Comparison: Charges Filed

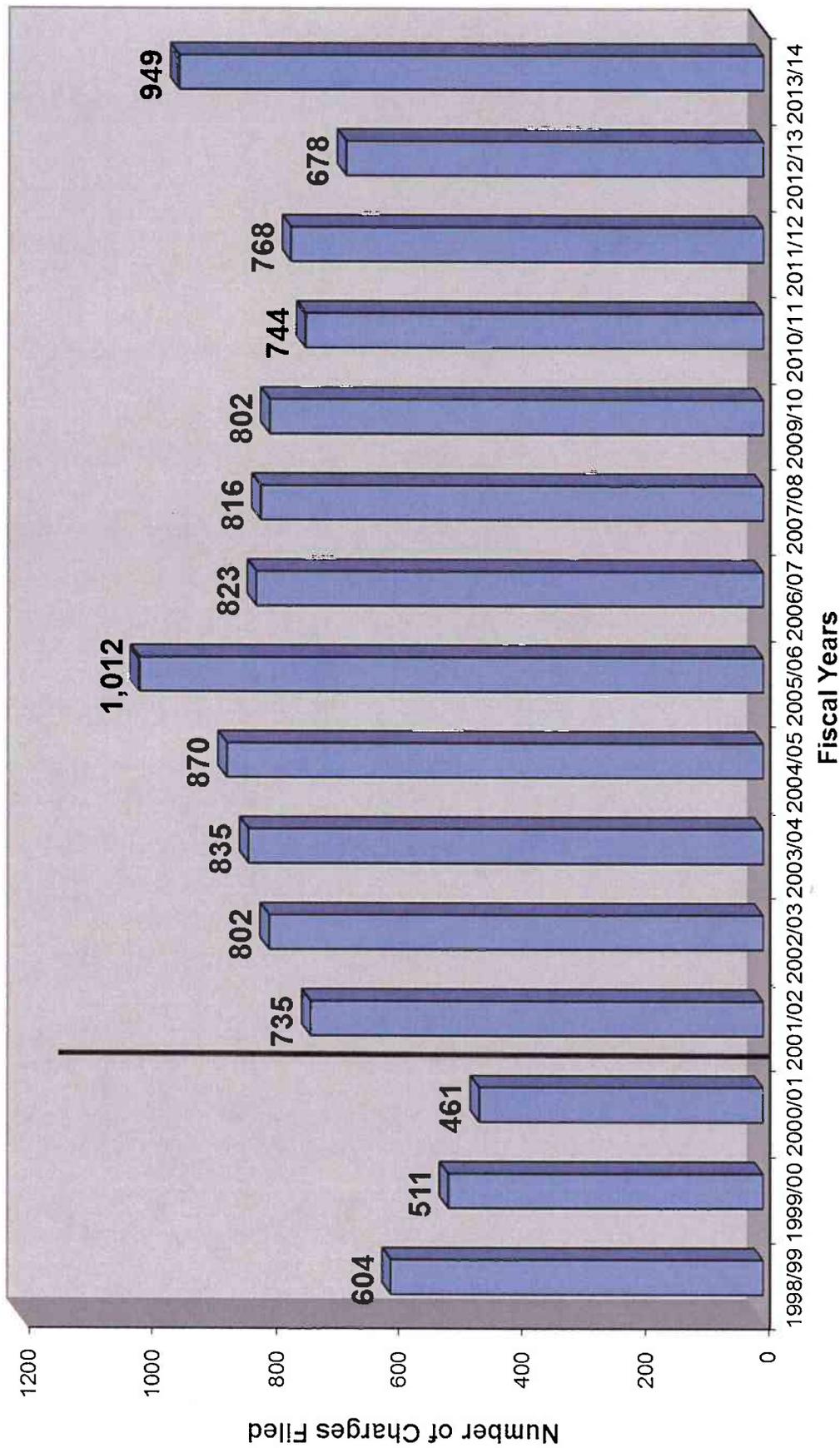
	2010/2011	2011/2012	2012/2013	2013/2014	4-Year Average
Total	744	768	678	949	785

IV. Unfair Practice Charge Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	56	24	71	151
San Francisco	124	50	85	259
Los Angeles	69	97	149	315
Total	249	171	305	725

(*173 Unfair Practice Charges were filed by the same individual on behalf of himself and/or other University of California employees regarding agency fee issues.)

Unfair Practice Charge Filings



Notes: The vertical line illustrates when MMBA jurisdiction took effect (July 1, 2001). (In fiscal year 2004-2005, the total number of charges filed (1,126) was adjusted to discount 256 nearly identical charges filed by a single group of employees and in fiscal year 2001-2002 the total number (935) was reduced by 200 for a similar set of filings.)

REQUESTS FOR INJUNCTIVE RELIEF (IR)

I. Prior Year Workload Comparison: IR Requests Filed

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	7-Year Average
Total	28	19	13	16	21	17	25	20

2013-2014 REPRESENTATION CASE ACTIVITY

I. Case Filings

Case Type	Filed
Request for Recognition	32
Severance	9
Petition for Certification	0
Decertification	21
Amended Certification	7
Unit Modification	44
Organizational Security	1
Arbitration	0
Mediation Requests (EERA/HEERA/Dills)	116
Factfinding Requests (EERA/HEERA)	26
Factfinding Requests (MMBA)	65
Compliance	29
Totals	350

II. Prior Year Workload Comparison: Cases Filed

	2010-2011	2011-2012	2012-2013	2013-2014	4-Year Average
Fiscal Year	230	294	347	350	305

III. Elections Conducted

Amendment of Certification	0
Decertification	7
Fair Share Fee Reinstatement	0
Fair Share Fee/Agency Fee Rescission	0
Representation	0
Severance	0
Unit Modification	0
Total	7

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2318-M	Service Employees International Union, Local 1021 v. County of Amador / Amador County Employees Association (Joined Party)	The charge alleged that the County maintained an unlawful local rule in violation of the MMBA when it voted to move forward with a decertification petition pursuant to a local rule that on its face was contrary to the MMBA.	Precedential decision. The Board affirmed the ALJ's proposed decision holding that the local decertification timing rule, required decertification petitions to be filed only within one year of certification of the recognized employee organization, conflicted with section 3705(b) of the MMBA. The County was ordered to remove the illegal rule and adhere to PERB regulations regarding decertification/certification until it amended its own timing provisions. The County was also ordered to rescind its action to move forward with the decertification election.
2319	Mayoro Niang v. California School Employees Association & its Chapter 3	The charge alleged that the Association breached its duty of fair representation by failing to adequately communicate with Niang, making it difficult for him to determine who his union representative was, failing to return phone calls, and failing to process all of Niang's workplace complaints and issues.	Non-precedential decision. The Board upheld the dismissal of the charge, noting that Niang's appeal failed to identify specific issues of procedure, fact, law or rationale to which his appeal was taken.
2320	Scott Hays v. Coast Community College District Teachers Association	The charge alleged that the Association violated EERA by refusing to elevate a grievance to arbitration in breach of its duty of fair representation.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2321-M	Santa Clara County Correctional Peace Officers' Association v. County of Santa Clara	<p>Charging party alleged that the employer violated the MMBA by: (1) unilaterally imposing background evaluation requirements on currently-employed correctional officers; (2) unilaterally changing work shifts for Lieutenants; and (3) unilaterally changing staffing levels at the Main Jail. The Office of the General Counsel found that the charge failed to state a prima facie case as to these allegations, and partially dismissed the charge.</p>	<p>Precedential decision. Partial dismissal reversed. The Board concluded that: (1) charging party's allegations state a prima facie case of an unlawful unilateral change in policy where an employer imposes additional background checks as a condition of employment on employees who have already undergone background checks as a condition of employment; and (2) charging party has alleged, prima facie, that the employer violated its duty to bargain in good faith by unilaterally reducing staffing levels without giving the union prior reasonable notice and an opportunity to bargain over the reasonably foreseeable effects within the scope of representation of this non-negotiable decision. The Board overrules <i>State of California (Department of Corrections & Rehabilitation, Avenal State Prison)</i> (2011) PERB Decision No. 2196-S), <i>Sylvan Union Elementary School District</i> (1992) PERB Decision No. 919 and other Board decisions holding that a union must first demand to bargain effects as a pre-condition to enforcing an employer's duty to provide a union reasonable advance notice and an opportunity to bargain over the reasonably foreseeable effects within the scope of representation of an otherwise non-negotiable decision.</p>

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2322	Chuni Lal Kaboo v. Service Employees International Union, Local 1021	The charge alleged that SEIU breached its duty of fair representation by not filing a grievance to contest Kaboo's termination.	Non-precedential decision. The Board upheld the dismissal of the charge on the grounds that there was no contractual mechanism for SEIU to invoke to challenge Kaboo's termination, and because the duty of fair representation does not require an exclusive representative to pursue extra-contractual remedies on behalf of bargaining unit members.
2322a	Chuni Lal Kaboo v. Service Employees International Union, Local 1021	Kaboo filed a request for reconsideration of PERB Decision No. 2322.	Non-precedential decision. The Board denied the request for reconsideration, since it failed to present the necessary grounds for reconsideration.
2323-S	John Hsu v. California Association of Professional Scientists	Charging party alleged that the union breached duty of fair representation when the attorney provided by the union failed adequately to represent him in a dismissal hearing before the State Personnel Board (SPB).	Non-precedential decision. Dismissal affirmed. Charging party failed to state a prima facie case. Union's duty of fair representation does not extend to representing bargaining unit members in cases involving a forum, such as SPB, that concerns an individual right unconnected with negotiating or administering a collective bargaining agreement.
2324-C	Service Employees International Union, Local 721 v. Los Angeles County Superior Court	The charge alleged that the Los Angeles Superior Court violated the Trial Court Act by failing to provide notice and opportunity to bargain over the effects of the decision to reorganize its courthouses and by bypassing the exclusive representative.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2325-M	Evelyn Ramirez-Claire v. Service Employees International Union, Local 521	The charge alleged that the SEIU, Local 521 violated the MMBA by being ineffective in resolving the charging party's complaints and by leading the charging party to believe she would be transferred in breach of its duty of fair representation.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case.
2326*	California School Employees Association and its Chapter 500 v. Los Angeles Unified School District	The complaint alleged that the District violated EERA by failing and refusing to bargain and by failing and refusing to participate in impasse procedures in good faith by insisting to impasse on a discretionary bargaining proposal.	Precedential decision—*JUDICIAL APPEAL PENDING. The Board vacated the proposed decision of the ALJ and remanded the matter for further proceedings in accordance with the Board's decision, which held that the District had the right to insist on the discretionary bargaining proposal to impasse but not to impose it upon impasse.
2327	Mary Ann Lavery v. Mendocino County Federation of School Employees	Charging party alleged that union breached duty of fair representation when it filed and settled a grievance in its own name regarding an evaluation of charging party, threatened to end a meeting wherein the resolution of the evaluation grievance was discussed due to charging party's conduct and failed to exercise due diligence when employer allegedly violated the parties' labor agreement in filling a vacant position.	Non-precedential decision. Dismissal affirmed. Charging party failed to state a prima facie case. A union does not breach its duty of fair representation unless it acted in bad faith, arbitrarily or in a manner that discriminated against charging party. The charging party bears the burden to allege how the union's decisions were discriminatory, devoid of a rational basis or honest judgment.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2328-M	Lompoc Police Officers Association v. City of Lompoc / City of Lompoc v. Lompoc Police Officers Association	In four complaints consolidated for formal hearing, both parties were charged with violating the MMBA by failing and refusing to bargain in good faith. In addition, the City was charged with interference and discrimination/retaliation.	Precedential decision. The ALJ issued a proposed decision dismissing three complaints but also concluding that the City committed an unfair practice by unilaterally implementing a salary reduction without negotiating the methodology. Following the filing of exceptions, the Board granted the parties' request to withdraw the matter due to a settlement. The Board dismissed the unfair practice charges with prejudice.
2329	Saddleback Valley Unified School District v. California School Employees Association and its Chapter 616	Charging party alleged that union engaged in surface bargaining during negotiations which culminated, after fact-finding, with imposition of employer's last, best and final offer.	Non-precedential decision. Dismissal affirmed. Charging party failed to state a prima facie case. Board concluded that the Office of the General Counsel: (1) properly analyzed all the District's allegations, that the analysis was properly made on the basis of the Board's traditional "totality of circumstances" test for surface bargaining and that the analysis was not unduly or inappropriately narrow; (2) did not improperly resolve disputed factual and legal issues in favor of respondent; and (3) properly concluded that none of the union's bargaining conduct alleged by charging party to have constituted an independent unfair practice occurred during the six-month statutory period required under EERA.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2330	Coast Community College Association v. Coast Community College District	The complaint alleged that the District violated EERA when it retaliated against an employee for engaging in protected activities.	Precedential decision. The ALJ issued a proposed decision concluding that the District issued a negative performance evaluation and denied a class assignment in retaliation for engaging in protected activities. Following the filing of exceptions, the Board granted the parties' request to withdraw the matter due to a settlement. The Board vacated the proposed decision and dismissed the unfair practice charge with prejudice.
2331	Sabino John v. Los Angeles Unified School District	The charge alleged, in pertinent part, that the District violated section 3543.5, subdivision (a) of EERA by removing the charging party's name from a list of persons with reemployment rights in retaliation for his exercise of protected rights. A Board agent dismissed the charge for failure to state a prima facie case.	Non-precedential decision. The Board affirmed the dismissal.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2332	California School Employees Association & Chapter 41 v. Santa Ana Unified School District	The Association's charge alleged that the District unilaterally changed the terms and conditions of employment when it repudiated a 2006 settlement agreement in a previous PERB unfair practice charge, and when the District reduced the work year for 244 employees in May 2008, without completing negotiations regarding the decision and effects of that decision.	Precedential decision. The Board affirmed the proposed decision, concluding that the settlement agreement was binding on the District and that the District had violated EERA section 3543.5(c) by repudiating the settlement agreement. Settlement of the unfair practice charge was within the scope of the authority of the employer's attorney and bargaining representative. The Board reversed the ALJ's finding that the Association waived its right to seek a remedy for that part of the charge alleging the District unilaterally reduced the work years of approximately 244 employees. The Board rejected the District's claim that the dispute should be deferred to arbitration.
2333	California School Employees Association and its Chapter 616 v. Saddleback Valley Unified School District	ALJ ruled that the employer violated EERA both when it implemented its last, best and final offer without having bargained over the methodology to be used in calculating a retroactive salary schedule decrease and when it failed to provide relevant and necessary requested information to exclusive representative.	Precedential decision. Decision partially reversed. The methodology to be used in calculating a retroactive salary schedule decrease was reasonably comprehended within the employer's last, best and final offer. Therefore, the employer did not violate EERA when it implemented its last, best and final offer.
2334-H	Maritza I. Quintanilla v. Regents of the University of California (Berkeley)	The charge alleged that Quintanilla was wrongly suspended for five days.	Non-precedential decision. The Board affirmed the dismissal of the charge because the appeal failed to comply with the PERB regulation governing appeals.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2335	Asad Abrahamian v. Coachella Valley Unified School District	Charging party alleged that he was retaliated against by employer for engaging in protected conduct. Charging party was involuntarily transferred to another worksite after reporting allegations of teacher misconduct during standardized student testing.	Non-precedential decision. Dismissal affirmed. Charging party failed to state a prima facie case. Charging party did not engage in conduct protected under EERA when he engaged in whistleblowing activity regarding alleged cheating on standardized tests by another bargaining unit member.
2336-M*	John Brewington v. County of Riverside	This is a compliance proceeding arising out of a Board decision, <i>County of Riverside</i> (2009) PERB Decision No. 2090-M, in which the Board concluded that the County violated the MMBA by retaliating against the charging party for engaging in protected activities, and the Board ordered reinstatement and back pay to remedy the unfair practice.	Precedential decision—*JUDICIAL APPEAL PENDING. The Board affirmed the proposed decision of the ALJ concluding that the County had not complied with the Board's order in the prior case. The Board modified the proposed remedial order to require that the County pay charging party his salary and restore his benefits from the date the proposed decision in the prior case would have become final.
2337	California School Employees Association and its Chapter 111 v. Palo Verde Unified School District	The ALJ ruled that employer violated EERA by discharging charging party in retaliation for her protected activity, including, inter alia, assisting her union, CSEA, to file an unfair practice charge against the District.	Precedential decision. Decision affirmed. The ALJ properly relied on circumstantial evidence to establish employer knowledge of employee's protected activity and properly rejected hearsay testimony and required independent evidence to establish alleged improper conduct of charging party as alternative, nondiscriminatory reason for discharge. ALJ appropriately assessed the credibility of witnesses and made appropriate findings describing credibility determinations. ALJ did not exceed the proper scope of PERB's inquiry by considering whether employer investigated alleged employee complaints regarding charging party or extended to

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2338-S	Saham S. Siavash v. State of California (Department of Transportation)	Charging party alleged that employer retaliated against him because he reported to employer what he believed to be employer's accounting irregularities.	charging party the benefits of the employer's intervention and assistance procedures. Non-precedential decision. Dismissal affirmed. Charging party failed to make a claim cognizable under the Dills Act.
2339	Compton Community College Federation v. Compton Community College District	The charge alleged that the District violated EERA by laying off an employee in retaliation for engaging in protected activities.	Precedential decision. The ALJ issued a proposed decision concluding that the District laid off an employee in retaliation for engaging in protected activities. Following the filing of exceptions, the Board granted the parties' request to withdraw the matter due to a settlement. The Board vacated the proposed decision and dismissed the complaint with prejudice.
2340-H	Susan McCormick v. Regents of the University of California (Davis)	The charge alleged that the University violated HEERA by: (1) making misleading statements during a grievance meeting; and (2) unilaterally imposing a new attendance policy. A Board agent dismissed the charge for lack of standing, untimeliness and failure to state a prima facie case.	Non-precedential decision. The Board affirmed the dismissal.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2341-M	American Federation of State, County and Municipal Employees, Local 101 v. City of San Jose	A Board agent dismissed a charge alleging that the City violated MMBA section 3505 and PERB Regulation 32603, subdivisions (c) and (e), by bargaining in bad faith during negotiations and during the impasse proceedings authorized by the City's local rules.	Precedential decision. The Board reversed the dismissal of the charge and remanded for issuance of a complaint for surface bargaining and for various per se violations of the duty to bargain. The Board held that: the Regional Attorney reliance on a categorical rule that more than one indicator of a respondent's bad faith must be present to state a prima facie case of surface faith bargaining is inconsistent with the "totality of circumstances test" long used by PERB for surface bargaining allegations.
2342	Asad Abrahamian v. Coachella Valley Unified School District	The ALJ concluded that although charging party established a prima facie case of retaliation, employer had met its burden of establishing that it would have placed him on administrative leave and involuntarily transferred him, notwithstanding his protected conduct.	Precedential decision. Outcome affirmed. Board reversed the ALJ's finding that charging party engaged in conduct protected under EERA when he reported cheating allegations to the District. Board ruled that charging party failed to establish that he engaged in conduct protected under EERA.
2343-M	Jin Chao Liang v. City & County of San Francisco	The charge alleged that the City & County of San Francisco violated the MMBA by excluding employees from reapplying for employment via a special closed civil service examination.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case and for lack of standing.
2344-M	Miao Xian Chen v. City & County of San Francisco	The charge alleged that the City & County of San Francisco violated the MMBA by excluding employees from reapplying for employment via a special closed civil service examination.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case and for lack of standing.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2345-M	Ming Hua Zhao v. City & County of San Francisco	The charge alleged that the City & County of San Francisco violated the MMBA by excluding employees from reapplying for employment via a special closed civil service examination.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case and for lack of standing.
2346-M	Jin Chao Liang v. Service Employees International Union, Local 1021	The charge alleged that the SEIU Local 1021 violated the MMBA by failing to fairly represent the charging party in dealings with the City & County of San Francisco concerning a special closed civil service examination in breach of its duty of fair representation.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case and for lack of standing.
2347-M	Ming Hua Zhao v. Service Employees International Union, Local 1021	The charge alleged that the SEIU Local 1021 violated the MMBA by failing to fairly represent the charging party in dealings with the City & County of San Francisco concerning a special closed civil service examination in breach of its duty of fair representation.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case and for lack of standing.
2348-M	Miao Xian Chen v. Service Employees International Union, Local 1021	The charge alleged that the SEIU Local 1021 violated the MMBA by failing to fairly represent the charging party in dealings with the City & County of San Francisco concerning a special closed civil service examination in breach of its duty of fair representation.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case and for lack of standing.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2349-M	Michael Coleman v. Santa Clara Valley Water District	The charge alleged that the Santa Clara Valley Water Authority violated the MMBA and PERB Regulations by denying the charging party's request for reclassification in retaliation for his involvement in protected activity.	Precedential decision. The Board affirmed the proposed decision of an ALJ dismissing the complaint and underlying unfair practice charge, because the charging party failed to prove that employer's decisionmaker had knowledge of his protected activity at the time of the adverse action taken. The Board also held that per section 3502.1 of the MMBA the mere fact of holding an "elected, appointed or recognized" leadership position in a union is proof that an employee engaged in protected activity.
2350-M	Orange County Employees Association v. County of Orange	The complaint alleged that the County violated the MMBA by dismissing an employee via a layoff in retaliation for engaging in protected activities.	Precedential decision. The Board affirmed the proposed decision of the administrative law judge concluding that the charging party failed to prove its case and dismissed the complaint and underlying unfair practice charge.
2351-M	Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. City of Sacramento	An ALJ dismissed the complaint and underlying unfair practice charge which alleged that the City violated the MMBA by failing and refusing to bargain in good faith over a decision and the effects of a decision to transfer bargaining unit work, lay off every employee in the Supervising Dispatcher classification represented by the charging party, and reassign their job duties to employees in a non-bargaining unit classification.	Precedential decision. The Board overturned the proposed decision because the City had not provided the employee's representative with adequate notice of the proposed changes or the opportunity to bargain over the decision to transfer bargaining unit work or the negotiable effects of that decision. The Board updated its posting requirements to include electronic methods when they are customarily used to communicate with employees.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2352-M	Service Employees International Union, Local 521 v. County of Fresno	The complaint alleged that the County violated the MMBA by failing and refusing to meet and confer in good faith over a change in policy concerning mandatory employee furloughs and repudiating provisions in the parties' memorandum of understanding.	Precedential decision. The ALJ issued a proposed decision concluding that the charging party failed to prove its case. Following the filing of exceptions, the charging party requested the proposed decision be vacated and the unfair practice be dismissed without prejudice. The County objected to the aspect of the request that the dismissal be without prejudice. The Board vacated the proposed decision and dismissed the complaint and underlying charge with prejudice.
2353	Lori E. Edwards v. Lake Elsinore Unified School District	The charge alleged that the District violated EERA on three grounds, unlawful unilateral change, interference and retaliation, and that PERB should not defer to an arbitration decision on repugnancy grounds.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel. Because charging party lacked standing to allege an unlawful unilateral change and the interference and retaliation allegations were untimely, the repugnancy allegation could not be reached.
2354-M	City of Sacramento and International Association of Machinists & Aerospace Workers and Stationary Engineers Local 39	A PERB Hearing Officer denied the International Association of Machinists and Aerospace Workers (IAM) petition to modify its bargaining unit to include a newly-established classification.	Precedential decision. The Board upheld the PERB Hearing Officers' proposed decision denying IAM's unit modification request because the duties performed by the newly-established classification were only incidental to the kind of work routinely performed by members of IAM's bargaining unit and more closely resembled the clerical and customer service duties of employees in another unit.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2355	Harrison Shampine, Tommye Brown, and Galda Ortiz v. California School Employees Association & its Chapter 47	Individual union members alleged that their Association violated EERA section 3546.5 by refusing their request for the union's financial records for the previous fiscal year.	Precedential decision. The Board vacated the dismissal and remanded the matter to the Office of the General Counsel for issuance of a complaint, concluding that the charging party stated a prima facie violation by the Association. A charge alleging a violation of EERA section 3546.5 is timely if it is filed within six months of the organization's refusal or failure to provide its financial report to a requesting member. A union member's request for "financial records (Treasurer's Report)" suffices as adequate notice to the Association of a request for the Union's financial report required under EERA section 3546.5.
2356	Jeffrey L. Norman v. National Education Association-Jurupa	The charge alleged that the Association breached its duty of fair representation and retaliated against Norman because of protected activity. Charge was dismissed as untimely.	Non-precedential decision. The Board upheld the dismissal on the grounds that the charge was untimely.
2357	Dave Lukkarila v. Claremont Unified School District	The charge alleged that that the District had retaliated against the charging party for his involvement in protected activities. The Office of the General Counsel dismissed the allegations and deferred the matter to arbitration.	Precedential decision. The Board reversed the dismissal and remanded the matter to the Office of the General Counsel for further investigation. The Board determined that deferral was not appropriate, pursuant to the futility exception of EERA section 3541.5, subd. (a)(2), because the exclusive representative was unwilling to arbitrate the charging party's allegations. The Board held that: (1) when a charging party cannot invoke binding arbitration independent of the exclusive representative, the Office of the

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			<p>General Counsel shall first determine whether the employer and the exclusive representative are ready and willing to proceed to arbitration before deferring the matter to arbitration; and (2) a Board charge including multiple allegations is not appropriate for deferral unless all of its allegations are deemed appropriate for deferral.</p>
2358-C	Mary J. Henry et al. v. San Mateo County Superior Court	<p>The charge alleged that the San Mateo Superior Court violated the Trial Court Act by failing to include charging party and other retired/former employees in a settlement agreement regarding furloughs (court closure days).</p>	<p>Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for lack of standing, lack of jurisdiction and failure to state a prima facie case.</p>
2359	Christopher Brown v. Los Angeles Unified School District	<p>The complaint alleged that the District violated EERA by issuing a negative performance evaluation and failing to reelect charging party to a permanent position in retaliation for engaging in protected activities.</p>	<p>Precedential decision. The Board reversed the proposed decision of the ALJ dismissing the complaint and underlying charge on timeliness grounds, and remanded the matter to reopen the record on the issue whether the statute of limitation should be tolled. Reversing in part <i>Long Beach Community College District</i> (2009) PERB Decision No. 2002.</p>

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2360-M	Service Employees International Union, Local 721 v. County of Riverside	SEIU Local 721 alleged that the County's declaration of impasse was premature and that its implementation of its last, best and final offer suspending the payment of step increases violated its duty under MMBA to bargain in good faith by unilaterally changing its policy regarding wages.	Precedential decision. The Board held that the parties were not at a genuine impasse in negotiations prior to the County's implementation of its last, best and final offer, since the parties had not exhausted all attempts to reach an agreement on steward pay and overtime pay. The County violated its duty under the MMBA to bargain in good faith by unilaterally changing its policy regarding wages. PERB has the authority to determine whether an impasse declared by either party is genuine.
2361-M	Merced County Sheriff's Employee Association v. County of Merced	The ALJ concluded that employer interfered with employees' rights when it threatened to discipline a union president unless he disclosed the identity of a bargaining unit member that informed the union and its attorney during a meeting of the union's executive board of a possible safety issue at one of employer's facilities.	Precedential decision. Decision affirmed. Employer interfered with union president's exercise of rights protected under the MMBA when its agent ordered him to reveal the name of the bargaining unit member who informed the union of his safety concerns during a meeting of the union's executive board.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2362	Natomas Teachers Association, CTA/NEA v. Natomas Unified School District	<p>Union alleged that employer violated EERA when it converted one of its school sites into a charter school in retaliation for union's refusal to waive a provision of the parties' collective bargaining agreement pertaining to transfers and reassignments.</p> <p>Charges partially dismissed by PERB's Office of the General Counsel on the basis that PERB lacked authority under Education Code § 47611.5(c) over a school district's decision to grant or deny a charter petition.</p>	<p>Non-precedential decision. Partial dismissal reversed. The Board concluded that union stated prima facie a retaliation violation. Employer's claim that PERB would be unable to remedy the violation is unpersuasive. The Board is unwilling to deem its jurisdiction impaired, because one of the possible remedies it may consider would arguably be beyond its authority to direct.</p> <p>The question of whether Education Code section 47611.5(c) divests PERB of its exclusive initial jurisdiction to determine if an unfair practice has been committed is an issue for determination in the first instance by an ALJ after a hearing at which factual and legal claims may be thoroughly assessed. Likewise PERB's authority to issue a remedy, and what remedy might be appropriate is a matter for determination in the first instance by an ALJ.</p>
2363	Lisa Ann Weston v. Los Angeles Unified School District	The charge alleged that the District wrongfully refused to allow Weston to rescind a notice of resignation after her layoff.	Non-precedential decision. The Board affirmed the dismissal, noting that the appeal did not reference any portion of the Office of the General Counsel's dismissal or otherwise identify the specific issues of procedure, fact, law or rationale to which the appeal was taken.
2364	Albert Natian v. AFT, Local 1521 (Los Angeles College Faculty Guild)	The charge alleged that the AFT, Local 1521 (Los Angeles College Faculty Guild) violated EERA with respect to charging party's request for transfer in breach of its duty of fair representation.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2365-H	Deana Polk v. Regents of the University of California	The charge alleged that the Regents of the University of California discriminated against the charging party for her exercise of protected employee rights, interfered with her rights to utilize the grievance proceedings, interfered with the rights of an employee organization and refused to meet and confer with her exclusive representative. A Board agent dismissed the charge as untimely, for lack of standing and lack of jurisdiction, and for failure to allege sufficient facts to state a prima facie case.	Non-precedential decision. The Board affirmed the dismissal.
2366-H	Deana Polk v. Teamsters, Local 2010	The charge alleged that Teamsters Local 2010 interfered with the charging party's right to file a grievance and breached its duty to fairly represent bargaining unit employees, in violation of HEERA section 3571.1	Non-precedential decision. The Board affirmed the dismissal.
2367-M	Service Employees International Union, Local 1021 v. County of Contra Costa	The charge alleged that the County violated the MMBA by unilaterally changing the terms of the parties' negotiated agreement regarding sick leave, interfering with employees' rights to engage in a work stoppage and maintaining an unreasonable local rule regarding work stoppages.	Non-precedential decision. The Board affirmed the partial dismissal of unilateral change and interference allegations of the charge by the Office of the General Counsel for failure to state a prima facie case.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2368-M	Andrew Church v. City of Oakland	The charging party alleged that the City retaliated against him, by issuing a disciplinary suspension and denying his request for leave, because of his protected activity as a union steward. A Board agent dismissed the charge for failure to state a prima facie case.	Non-precedential decision. The Board affirmed the dismissal.
2369	Constantino Gabriele v. Los Angeles College Faculty Guild, Local 1521	Charging party alleged that the union breached its duty of fair representation when an attorney provided by the union in extra-contractual proceedings provided him with legal advice that resulted in his loss of retiree health care benefits.	Non-precedential decision. Dismissal affirmed. The Board adopts the Office of the General Counsel's warning and dismissal letters which dismissed charges on the basis that charges were both untimely and failed to state a prima facie case that the union breached duty of fair representation.
2370	Melinda Torres v. Regents of the University of California (San Francisco)	The ALJ determined that employer did not violate HEERA by discriminating against charging party or interfering with her because of her exercise of rights protected under HEERA. Charging party alleged that employer discriminated against her by failing to offer her a "career" position in the same position she had held as a floater employee in accordance with the parties' labor agreement because she had filed grievances over the matter.	Precedential decision. Decision affirmed. Charging party failed to establish that "career" positions offered to her constituted adverse actions by the employer and even if the employer's job offers were adverse actions because the "career" positions may have been more demanding than the position she had previously held, charging party failed to establish a nexus between her protected conduct and the employer's job offers.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2371	Jeffrey L. Norman v. National Education Association-Jurupa	Norman alleged his the Association violated its duty of fair representation and retaliated against him when it refused to provide an attorney to represent him in an administrative hearing concerning his dismissal as a permanent teacher.	<p>Precedential decision. The Board affirmed the dismissal of the unfair practice charge, holding that the Association did not violate its duty of fair representation or retaliate against Norman. The Association owed no duty of fair representation to the member in an administrative proceeding governed exclusively by the Education Code because the union did not control the exclusive means by which the member could vindicate his individual right to appeal his dismissal. PERB does not have jurisdiction to enforce alleged promises regarding member-only economic benefits allegedly made by non-exclusive representative parent employee organization.</p>
2372-H	Todd Senigar v. Regents of the University of California (San Francisco)	Charging party alleged that employer violated HEERA by retaliating against him for filing grievances when it denied him reappointment rights and disability benefits; improperly reported his income to the Internal Revenue Service; and caused the U.S. Department of Homeland Security to investigate him.	<p>Non-precedential decision. Dismissal affirmed. The Board adopts the Office of the General Counsel's warning and dismissal letters, which dismissed charges on the basis that the charges were untimely. In addition, the Office of the General Counsel found that, even if the charges had been timely, charging party failed to state a prima facie case by alleging nexus between his protected activity and the employer's alleged adverse actions.</p>

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2373-M	International Union of Operating Engineers, Stationary Local No. 39 v. City of Fresno	The ALJ held that the employer violated the MMBA by unilaterally implementing a furlough program without meeting and conferring in good faith with the union.	Precedential decision. Employer requested to withdraw its exceptions to the ALJ's decision pursuant to a settlement agreement with the union. The Board granted the request under PERB Regulation 32320.
2374-M	City & County of San Francisco (Department of Human Resources) v. Service Employees International Union, Local 1021	Charging party alleged that the union violated the MMBA and PERB Regulations when it authorized a labor stoppage prior to reaching impasse and in violation of the parties' memorandum of understanding.	Non-precedential decision. Dismissal affirmed. The Board concluded that the charging party failed to allege a prima facie violation of the duty to bargain in good faith. While the Board has found a possible violation of the bargaining duty under the totality of the circumstances test when a strike authorization vote is coupled with evidence of significant strike preparation activities, that evidence is not alleged here.
2375-M	Clifton Johnson v. City & County of San Francisco	The charge alleged that the City & County of San Francisco violated the MMBA with respect to charging party's dismissal from employment.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case.
2376	Rocklin Teachers Professional Association, CT/NEA v. Rocklin Unified School District	The complaint alleged that the District violated EERA by dismissing four school nurses in retaliation for engaging in protected activities, by removing/transferring work exclusively performed by school nurses from the bargaining unit without prior notice and opportunity to bargain and by subcontracting out work from the bargaining unit.	Precedential decision. The Board affirmed the proposed decision of the ALJ dismissing allegations concerning the removal/transfer and subcontracting out of bargaining unit work, but finding a violation based on the retaliation allegations.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2377-M	Beverly Hughes-Loche v. AFSCME, Local 1587	Charging party alleged that union violated its duty of fair representation under the MMBA by failing to file a grievance challenging her termination by the employer.	Non-precedential decision. Dismissal affirmed. Board adopted the Office of the General Counsel's warning and dismissal letters as the decision of the Board itself. The Office of the General Counsel dismissed the charge after determining that the charge failed to allege facts demonstrating that the union's failure to file a grievance challenging the termination was without a rational basis or devoid of honest judgment.
2378	Centinela Valley Secondary Teachers Association v. Centinela Valley Union High School District	The ALJ determined that employer violated EERA by unilaterally terminating a policy in the parties' collective bargaining agreement (CBA) providing 40 percent release time to the union president.	Precedential decision. Decision affirmed. There was no evidentiary support for employer's contention that release time in the CBA was intended to be governed solely by Education Code section 44987. The employer's unilateral repudiation of a collectively bargained release time provision or a change in past practice without affording the union the opportunity to bargain is conduct falling squarely within PERB's jurisdiction.
2379	Center Unified School District and California School Employees Association & its Chapter 610	The District filed exceptions to a Board agent's decision that noon duty aides shared a sufficient community of interest with the District's classified employees to be included in an existing wall-to-wall unit of classified employees.	Precedential decision. The Board affirmed the Board agent's decision and overruled <i>Castaic Union High School District (2010)</i> PERB Order No. Ad-384 to the extent it was not already superseded by passage of AB 501, which expressly recognized the representational rights of noon duty aides.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2380-M	Selma Firefighters Association, IAFF, Local 3716 v. City of Selma	The Association alleged that the City refused to meet and confer in good faith when it imposed last, best and final offer that restored furlough days but required employee contribution to pension.	Precedential decision. The Board affirmed the proposed decision, finding that the City engaged in surface bargaining and prematurely declared impasse before implementing its last, best and final offer.
2381	Eric M. Moberg v. Monterey Peninsula Unified School District	Charging party alleged that he engaged in protected activity and that the District retaliated against him because of his exercise of those rights protected under EERA.	Precedential decision. Dismissal affirmed. The Office of the General Counsel determined that charging party had failed to allege a nexus between his protected conduct and the employer's adverse actions. In addition, the Office of the General Counsel found several of the allegations untimely. The Board agreed that charging party failed to establish a nexus between his protected conduct and the employer's adverse actions. The Board concluded that allegation that the employer adopted an adverse proposed decision by an administrative law judge from the Office of Administrative Hearings was timely filed under PERB's relation-back doctrine.
2382	Emmanuel E. Vasserman v. United Teachers Los Angeles	The charge alleged that the United Teachers of Los Angeles had violated EERA and breached its duty of fair representation. The Office of the General Counsel dismissed the charge for failure to state a prima facie case.	Non-precedential decision. The Board affirmed the dismissal.
2383-S	Michell A. Stewart v. State of California (State Compensation Insurance Fund)	The charge was not properly filed in accordance with PERB Regulation 32615, despite multiple opportunities to correct the deficiency, and therefore the allegations of the charge were not reached.	Non-precedential decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to properly serve the charge on respondent.

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2384-H	California State University Employees Union, Service Employees International Union Local 2579 v. Trustees of the California State University	The Office of the General Counsel dismissed a charge which alleged that the University had violated HEERA by refusing to provide information pertaining to an investigation; unilaterally changing its records retention policy; and allowing a supervisor to represent a non-supervisory employee in a collectively-bargained complaint proceeding.	<p>Precedential decision. The Board reversed the dismissal and directed issuance of a complaint on the charging party's allegation that a supervisory employee had represented a non-supervisory employee in a collectively bargained complaint procedure in violation of HEERA section 3580.5. In reviewing the record the Board determined that the Office of the General Counsel failed to fully investigate all allegations in the charge and remanded the remainder of the charge for further investigation. The Board ordered the issuance of the complaint be held until the investigation of the remaining charges was complete. The Board also held that PERB has jurisdiction over all alleged violations of HEERA section 3580.5.</p>

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2385*	California School Employees Association & its Chapter 32 v. Bellflower Unified School District	<p>The ALJ concluded that the employer had violated EERA, when it failed to bargain in good faith over the effects of its decision to close a worksite and abolish positions of employees represented by the union. The ALJ also concluded that the Association failed to establish that the employer unilaterally implemented a layoff or reduced the hours of its bargaining unit members. In addition, having determined that the Association failed to establish that any of its bargaining unit members had been improperly laid-off by the employer, the ALJ also declined the Association's request for a make-whole remedy to compensate those employees.</p>	<p>Precedential decision—*JUDICIAL APPEAL PENDING. Decision affirmed. While the employer is not obligated to bargain over the decision to implement lay-offs, once the employer made a firm decision to close a work site and eliminate bargaining unit positions and, subsequently, received a valid effects bargaining demand, the duty to bargain in good faith over the effects of that decision arose.</p> <p>The District failed and refused to bargain in good faith over the effects of its decision to close one of its worksites and abolish positions represented by the Association. The Board agreed with the ALJ that an order that the employer meet and negotiate with the Association over the effects of its decision to close its worksite and abolish positions is appropriate. The Board ordered a limited back-pay order during such bargaining in accordance with <i>Transmarine Navigation Corporation</i> (1968) 170 NLRB 389.</p>

2013-2014 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2386-S	William Armantrout v. California Statewide Law Enforcement Association	<p>The ALJ concluded that the Association's rules pertaining to internal disciplinary procedures were both reasonable and reasonably applied to charging party as required by section 3515.5 of the Dills Act. The ALJ dismissed the charges because charging party failed to exhaust his administrative remedies, as required under the union's rules, before filing an unfair practice charge before PERB.</p>	<p>Precedential decision. Decision affirmed. The exhaustion of administrative remedies is a jurisdictional prerequisite not an affirmative defense. The requirement to exhaust internal union remedies is plainly stated in the Association's rules and thus became part of charging party's burden to prove. Charging party failed to prove he had exhausted the internal union remedies.</p> <p>The rule that administrative remedies must be exhausted before seeking judicial relief has long been applied also in the context of exhaustion of internal union remedies. The ALJ properly analyzed the Association's internal disciplinary procedures under the only restriction applied to them under section 3515.5 of the Dills Act, that they be reasonable and reasonably applied. The Board ruled that the Association's procedures, including the requirement that a member fully exhaust internal union remedies before resorting to external proceedings, are reasonable.</p> <p>The Board rejected charging party's futility argument. The mere fact that a union's administrative body had decided other cases involving other plaintiffs on similar facts against plaintiff's position did not make an administrative appeal futile nor did such facts excuse a litigant from exhausting available administrative remedies.</p>

2013-2014 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

* All Administrative Determinations decided by the Board itself are designated as **precedential decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-400	Santa Maria Elementary Education Association v. Santa Maria-Bonita School District	After a formal hearing resulting in a proposed decision finding that the District, acting through its agent, an elected official on the governing body, interfered with protected rights, the agent filed a document construed by the Appeals Assistant as a statement of exceptions. After the Appeals Assistant rejected the document due to the agent's non-party status in an administrative decision, the agent appealed.	The Board denied the appeal, affirming the decision of the Appeals Assistant that the agent lacked party status to file exceptions to the proposed decision.*** *** Neither party filed exceptions; therefore, the proposed decision of the ALJ became final.
Ad-401	Children of Promise Preparatory Academy and Inglewood Teachers Association	Request filed by employer pursuant to PERB Regulation 32370 for a stay of activity pending the employer's appeal of an administrative determination certifying a union as the exclusive representative of a unit of certificated employees pursuant to EERA.	Request denied. Employer's submission fails to meet the requirements of PERB Regulation 32370. The request for stay offers no pertinent facts or justification as required under regulation.
Ad-402	Children of Promise Preparatory Academy and Inglewood Teachers Association, CTA/NEA	Appeal by employer of an administrative determination certifying union as the exclusive representative of all non-managerial, non-supervisory, and non-confidential certificated personnel.	Board agents did not abuse their discretion in determining that the union provided valid proof of support or in deciding not to hold an evidentiary hearing. Board agents did not mislead the employer regarding the composition of the unit seeking certification.

2013-2014 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

* All Administrative Determinations decided by the Board itself are designated as **precedential decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-403-M	City of Fremont and Group of Employees and Service Employees International Union, Local 1021	SEIU Local 1021 filed an interlocutory appeal from an administrative decision issued by the Office of the General Counsel to conduct an agency fee rescission election among city employees, and requested to stay the conduct of the rescission election.	The Board dismissed the union's appeal and request to stay the election. The Board remanded to the Office of the General Counsel the agency fee rescission petition for an investigation of the facts.
Ad-404-H	Wenjiu Liu v. Trustees of the California State University (East Bay)	Liu requested the disqualification of an ALJ who refused to disqualify himself from adjudicating Liu's unfair practice charge.	The Board denied the request on the grounds that Liu's request did not comply with PERB Regulation 32155(c), since the request for disqualification was not filed prior to the taking of evidence in the ALJ's evidentiary hearing.
Ad-405	Mount Diablo Unified School District and Teamsters Local 856 and Public Employees Union Local 1	Appeal by decertifying union of an administrative determination dismissing decertifying union's decertification petition as untimely, because it was filed outside of the window period created by an agreement between incumbent union and employer to extend by four months of the expiration of their existing memorandum of understanding (MOU), from June 30, 2013 to November 1, 2013. Decertifying union contended that the Board agent erred by not conducting an evidentiary hearing on the issue of whether the employer and incumbent	Board concluded that failure of the employer and incumbent union to provide notice to unit employees of an agreement to extend expiration of a MOU is not a relevant fact when assessing whether a contract bar arises from the extension agreement.

2013-2014 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

*All Administrative Determinations decided by the Board itself are designated as **precedential decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-406-M	Pasadena Management Association v. City of Pasadena	union failed to provide unit employees notice of their extension agreement, averring that the employer and incumbent union intentionally failed to provide notice to employees and that this conduct should preclude incumbent union's reliance on the extension agreement as a bar to decertification petition.	The Board affirmed the Board agent's decision and adopted the back pay computation method outlined in the decision, dismissing the City's appeal.
Ad-407-M	Clifton Johnson v. City & County of San Francisco	A Board agent determined that the City had not complied with the Board's previous order to compensate its underground crew supervisors with back pay and interest for financial losses as the result of a unilateral implementation of a new on-call rotation schedule. The Appeals Assistant denied charging party's request for an extension of time to appeal the dismissal of the charge by the Office of the General Counsel because it was not timely filed.	The Board granted the appeal, finding good cause to excuse charging party's late-filed request for an extension of time.

2013-2014 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

* All Administrative Determinations decided by the Board itself are designated as **precedential decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-408-M	County of Sacramento and Engineering Technicians & Technical Inspectors and United Public Employees, Local 1	The Engineering Technicians & Technical Inspectors' petition sought to sever two classes from their bargaining unit represented by the United Public Employees Local 1.	After petitioner filed a timely appeal of the Office of the General Counsel's dismissal of the petition for lack of jurisdiction given the existence of local rules that can accomplish the same severance purpose, the Board granted a joint request from petitioner and the County to withdraw the appeal due to resolution of the dispute through an arbitration process that resulted in the petitioned-for severance.
Ad-409-M	City of Redondo Beach and Redondo Beach Police Officers Association (Police Management Unit)	The Association appealed an administrative determination that the Association's request for factfinding was untimely.	The Board dismissed the Association's appeal and affirmed the administrative determination. The Board held that PERB's jurisdiction to appoint a factfinder in disputes involving peace officers is derived from MMBA section 3505.4.
Ad-410-M	County of Contra Costa v. AFSCME Local 2700	The County challenged the Office of the General Counsel's administrative determination that the factfinding procedures added to the MMBA by AB 646 (MMBA §§ 3505.4 through 3505.7), apply to any bargaining impasse over single-issue disputes, and not only to impasses over new or successor MOU.	The Board upheld the administrative determination and held MMBA factfinding provisions apply to all bargaining disputes over matters within the scope of representation, not just to negotiations over new or successor collective bargaining agreements.

2013-2014 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

* All Administrative Determinations decided by the Board itself are designated as **precedential decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-411-M	Melvin Jones Jr. v. County of Santa Clara	Appeal from administrative determinations by PERB's Appeals Assistant, in which she denied charging party's requests for reconsideration of <i>County of Santa Clara (2013) PERB Order No. Ad-398-M</i> and for reinstatement of his appeal in Case No. SF-CE-998-M	Board affirmed administrative determination and dismissed request for reconsideration.
Ad-412-M	Herman Guerrero v. County of Santa Clara	The Appeals Assistant denied charging party's request for an extension of time to appeal the dismissal of the charge by the Office of the General Counsel because it was not timely filed.	The Board denied the appeal, finding no demonstration of good cause to excuse the late-filed appeal.
Ad-413-M	City of Redondo Beach and California Teamsters, Local 911	The Teamsters appealed an administrative determination by the Office of the General Counsel, which denied the Teamsters' request for factfinding pursuant to the MMBA on the grounds that it was untimely.	The Board adopted the administrative determination that the request for factfinding was untimely.

2013-2014 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

* All Administrative Determinations decided by the Board itself are designated as **precedential decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-414-M	County of Fresno and Service Employees International Union, Local 521	The County appealed an administrative determination that factfinding procedures set forth in MMBA sections 3505.4 through 3505.7 apply to a bargaining impasse between the County and the union resulting from a bargaining dispute over two County proposals regarding the number of employees working 12-hour shifts at the county jail and the addition of specialized assignments at the jail.	The Board affirmed the administrative appeal, based on its decision in <i>County of Contra Costa (2014) PERB Order No. Ad-410-M</i> . Factfinding procedures under the MMBA are not limited to impasses in negotiations for comprehensive MOUs.

2013-2014 DECISIONS OF THE BOARD

REQUESTS FOR JUDICIAL REVIEW

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
There were no Requests for Judicial Review that were considered by the Board this fiscal year.			

2013-2014 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF*

*All Requests for Injunctive Relief decided by the Board itself are designated as precedential decisions.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
IR-56a-H	Wenjiu Liu v. Trustees of the California State University (East Bay)	Charging party filed a request for reconsideration of its denial of his request for injunctive relief.	The Board denied the request for reconsideration, holding that reconsideration is not available for decisions by the Board regarding requests for injunctive relief
IR-57-M	City of Fremont (SEIU)	Request for Injunctive Relief by incumbent union against employer. Incumbent union alleged that the employer violated the MMBA and PERB Regulation 32603 by: (1) improperly processing a decertification petition; (2) failing to arrange for a neutral third party to conduct the decertification election; (3) unlawfully assisting the decertification petitioner by providing legal advice; (4) refusing to recognize incumbent union as the exclusive representative of the bargaining unit, refusing to bargain with incumbent union, and unlawfully withholding agency fees and member dues payable to incumbent union; and (5) violating its duty of neutrality by expressing its support for one of the competing employee organizations.	Board concluded that injunctive relief was appropriate and necessary (1) to prevent frustration of the purposes of the MMBA; (2) to preserve the status quo ante and prevent nullification of a Board final order owing to the lapse of time required to complete the Board's administrative procedures; and (3) to prevent the Board's procedures from becoming meaningless through inability to provide a meaningful remedy.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 639	East Bay Regional Park District v. AFSCME Local 2428	Whether AFSCME should be enjoined from calling upon “essential employees”—including lifeguards, industrial firefighters, and park attendants—to strike on July 4 and 5, 2013.	Request withdrawn.
I.R. 640	City of Hayward v. Service Employees International Union Local 1021	Whether SEIU should be enjoined from calling upon certain “essential employees”—including 911 dispatchers, water treatment plant operators, and non-safety jail staff—to engage in a three-day strike that was scheduled to begin on August 12, 2013.	Request granted in part.
I.R. 641	Wenjiu Liu v. Trustees of the California State University (East Bay)	Whether injunctive relief—requiring the University to continue Liu’s employment and reverse its decision to deny him tenure as a professor at CSU East Bay—would be just and proper, to maintain the status quo pending completion of binding arbitration and formal administrative hearings on claims that the University retaliated against Liu in violation of the applicable CBA and HEERA for filing grievances relating to a disciplinary suspension, denial of tenure, and termination of his employment.	Request summarily denied.
I.R. 642	Petaluma Federation of Teachers v. Petaluma City Elementary School District	Whether the District should be enjoined based on allegations that it unilaterally extended kindergarten instructional hours and modified the work calendar prior to completing the impasse resolution process, and unlawfully bypassed the exclusive representative by dealing directly with bargaining unit employees.	Request denied.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 643	Wenju Liu v. Trustees of the California State University (East Bay)	Whether injunctive relief—requiring the University to continue Liu’s employment and reverse its decision to deny him tenure as a professor at CSU East Bay—would be just and proper, to maintain the status quo pending completion of formal administrative proceedings on claims that the University retaliated against Liu in violation of the applicable CBA and HEERA for filing grievances relating to a disciplinary suspension, denial of tenure, and termination of his employment.	Request summarily denied.
I.R. 644	Wenju Liu v. Trustees of the California State University (East Bay)	Whether injunctive relief—requiring the University to continue Liu’s employment and reverse its decision to deny him tenure as a professor at CSU East Bay—would be just and proper, to maintain the status quo pending completion of formal administrative proceedings on claims that the University retaliated against Liu in violation of the applicable CBA and HEERA for filing grievances relating to a disciplinary suspension, denial of tenure, and termination of his employment.	Request summarily denied.
I.R. 645	Regents of the University of California v. California Nurses Association	Whether CNA should be enjoined from calling a one-day sympathy strike in the Nurses’ Unit (NX) at the five UC Medical Centers on November 20, 2013, after serving ten-day strike notices on UC, because such strikes would allegedly be unlawful pre-impasse strikes or allegedly entail a work stoppage by “essential employees” within the meaning of <i>County Sanitation</i> .	Request withdrawn.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 646	Regents of the University of California v. American Federation of State, County and Municipal Employees, Local 3299	Whether AFSCME should be enjoined from calling a one-day strike in the Patient Care Technical (EX) and Service (SX) units at the five UC Medical Centers on November 20, 2013, after serving ten-day strike notices on UC, because such strikes would allegedly entail a work stoppage by “essential employees” within the meaning of <i>County Sanitation</i> .	Request granted in part.
I.R. 647	Regents of the University of California v. American Federation of State, County and Municipal Employees, Local 3299	Whether AFSCME should be enjoined from calling a one-day strike in the Patient Care Technical (EX) and Service (SX) units at the five UC Medical Centers on November 20, 2013, after serving ten-day strike notices on UC, because such strikes would allegedly entail a work stoppage by “essential employees” within the meaning of <i>County Sanitation</i> .	Request denied.
I.R. 648	Service Employees International Union, Local 521 v. County of Fresno	Whether the County should be enjoined from allegedly implementing two unilateral changes in terms and conditions of employment—the creation of new specialized assignments and an increase in the number of 12-hour shifts available—for the employment of Correctional Officers.	Request denied.
I.R. 649	Shasta County Superior Court v. United Public Employees of California, Local 792	Whether certain court reporters were considered “essential employees” who should be enjoined from engaging in a court employee strike called by UPEC against the Shasta Superior Court on November 18 and 19, 2013.	Request withdrawn.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 650	Shasta County Superior Court v. United Public Employees of California, Local 792	Whether certain court reporters were considered “essential employees” who should be enjoined from engaging in a court employee strike called by UPEC against the Shasta Superior Court on November 18 and 19, 2013.	Request denied.
I.R. 651	American Federation of State, County and Municipal Employees, Council 36 et al. v. County of Los Angeles	Whether the County should be enjoined from allegedly implementing new procedures for appointment of members of the Employee Relations Commission [ERCOM] and a new Master Agreement for ERCOM hearing officers.	Request denied.
I.R. 652	Service Employees International Union, Local 721 v. Coachella Valley Water District	Whether injunctive relief—including granting SEIU’s request for a stay of an upcoming decertification election—would be just and proper, to stop the election and preserve the status quo while the Union’s unfair practice charge against the District is under investigation.	Request denied.
I.R. 653	Service Employees International Union Local 1021 v. City of Hayward	Whether the City should be enjoined from implementing its LBFO because it allegedly engaged in the following conduct: (1) bad faith bargaining, and prematurely declared impasse; and (2) dealt directly with employees during the meeting at which the City Council voted to implement the LBFO.	Request denied.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 654	Regents of the University of California v. AFSCME Local 3299 (EX & SX Unit)	Whether a five-day primary strike at the UC Medical Centers by the SX Unit and a five-day sympathy strike by the EX Unit, both noticed for March 4-9, 2014 should be enjoined because of the participation of approximately 100 employees in the EX unit who were alleged to be "essential" within the meaning of <i>County Sanitation</i> , 49 of whom had been previously enjoined from striking in May and November 2013.	Request withdrawn.
I.R. 655	Regents of the University of California v. AFSCME Local 3299 (EX & SX Unit)	Whether a primary strike at the UC Medical Centers by the SX Unit and five-day sympathy strike by the EX Unit should be enjoined based on allegations that it would be an unlawful pre-impasse strike by the EX Unit, and an unlawful intermittent strike by both units.	Request withdrawn.
I.R. 656	Regents of the University of California v. AFSCME Local 3299 (EX Unit)	Whether a five-day unfair practice strike noticed by the EX Unit for March 24-29, 2014, at the UC Medical Centers, should enjoin participation of approximately 100 alleged "essential employees" in the EX unit, 49 of whom had been enjoined from striking in May and November 2014.	Request granted in part.
I.R. 657	Regents of the University of California v. AFSCME Local 3299 (EX Unit)	Whether a five-day unfair practice strike noticed by the EX Unit for March 24-29, 2014, at the UC Medical Centers, should be enjoined based on allegations that it would be an unlawful pre-impasse strike and an unlawful intermittent strike.	Request denied.
I.R. 658	Sweetwater Union High School District v. Sweetwater Education Association	Whether a threat by SEA to strike because of alleged unfair practices, and discussions on social media about a strike prior to exhaustion of statutory impasse procedures, should be enjoined.	Request denied.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 659	Lori Edwards v. Lake Elsinore Teachers Association	Whether the Association allegedly failed to fulfill its duty of fair representation with respect to Edwards' concerns as to a successor agreement and should be enjoined.	Request denied.
I.R. 660	Matthew Greco v. San Diego Deputy District Attorneys Association	Whether an internal union investigation and possible expulsion process by the Association should be enjoined.	Request denied.
I.R. 661	City & County of San Francisco (Municipal Transportation Agency) v. Transport Workers Union of America Local 250	Whether the Transit Workers United, Local 250-A (TWU) should be enjoined for allegedly engaging in the following conduct: (1) supported/encouraged a three-day sick-out by bargaining unit members; (2) engaged in actions meant to "torpedo" the parties' tentative agreement, and encouraged the membership to vote against ratification; and (3) has refused to participate in an arbitration session scheduled for June 7, 2014.	Request denied.
I.R. 662	Service Employees International Union Local 1021 v. City of Fremont	Whether the City of Fremont should be enjoined based on the City's alleged conduct of ceasing to transmit agency fees and SEIU member dues to SEIU, and depositing them in a third party account until the resolution of UPC No. SF-CE-1028-M.	Request denied.

2013-2014 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 663	International Association of Machinists & Aerospace Workers, District Lodge 947, Local 1930 v. City of Long Beach	Whether the City of Long Beach should be enjoined from going forward with a decertification election based on the following alleged conduct: (1) processing an "invalid and defective" decertification petition filed by a rival employee organization in violation of its own local rules; (2) violating its local rules by failing to process IAM's appeal; (3) unilaterally changing its local rules regarding representation elections; (4) unilaterally changing the City's existing medical examination policy; and (5) breaching its duty of strict neutrality.	Request withdrawn.

2013-2014 LITIGATION CASE ACTIVITY

1. *City of Palmdale v. PERB; Teamsters Local 911*, Court of Appeal, Second Appellate District, Division Four, Case No. B238572 (PERB Case No. LA-PC-5-M). Issue: Did PERB err in Decision Nos. 2203 and 2203a (by affirming a Board Agent's decision granting, in part, a petition for certification by which the Teamsters sought to become the exclusive representative of certain lead employees in the traffic and maintenance divisions of the City's Department of Public Works)? On January 20, 2012, the City filed a petition for writ of review and a request for a stay of the Board's decision. Briefing was completed on July 24, 2012. On October 31, 2013, the Court of Appeal summarily denied the City's petition.
2. *Glendale City Employees Assn. v. PERB; City of Glendale*, California Court of Appeal, Second Appellate District, Division P, Case No. B246938; (PERB Case No. LA-CE-672-M). Issue: Whether the superior court erred by sustaining the City's demurrer and dismissing the writ petition seeking to direct the Board to vacate PERB Decision No. 2251 (affirming a Board Agent's dismissal of the Glendale City Employees Association's (GCEA) charge, which alleged per se violations of the City's duty to meet and confer in good faith and surface bargaining during negotiations for a successor MOU, including changes to pension contributions)? The GCEA filed a notice of appeal in the Court of Appeal on February 18, 2013 and its record on appeal on July 25, 2013. Briefing was completed on December 5, 2013. On March 14, 2014, the GCEA filed a letter bringing to the Court's attention the Board's recent decision in *City of San Jose* (2013) PERB Decision No. 2341-M (*City of San Jose*), contending that it significantly changed the pleading standards for a claim of surface bargaining. On April 9, 2014, PERB filed a motion for permission to file supplemental briefing regarding the effect of the *City of San Jose* case, and to continue oral argument for that purpose. The Court of Appeal granted PERB's request for supplemental briefing. Oral argument occurred on May 6, 2014. On June 13, 2014, the Court of Appeal issued a non-published decision affirming the superior's court ruling granting the City's demurrer. On July 3, 2014, PERB requested that the Court of Appeal's decision be published. On July 11, 2014, the Court of Appeal denied PERB's publication request.
3. *Glendale City Employees Association v. PERB; City of Glendale*, July 17, 2014, California Supreme Court, Case No. S219922, California Court of Appeal, Second Appellate District, Division P, Case No. B246938; Los Angeles Superior Court Case No. BS137172; PERB Decision No. 2251 [UPC No. LA-CE-672-M]. Issue: Should the California Supreme Court grant GCEA's Petition for Review of the Court of Appeal's decision affirming the Superior Court denial of GCEA's petition for writ of mandate as to PERB Decision No. 2251 (affirming a Board Agent's dismissal of the GCEA's charge, which alleged per se violations of the City's duty to meet and confer in good faith and surface bargaining during negotiations for a successor MOU, including changes to pension contributions)? GCEA's Petition for Review was filed on July 17, 2014. PERB's Answer to Petition for Review was filed with the Supreme Court on August 6, 2014. GCEA's Reply was filed on August 18, 2014. The Supreme Court granted

itself an extension of time until October 15, 2014, to determine whether to grant/deny the petition.

4. *Regents of the University of California v. PERB; AFSCME Local 3299*, California Court of Appeal, First Appellate District, Division One, Case No. A137635 (PERB Decision No. 2300-H [PERB Case No. SF-CE-858-H and SF-CE-862-H]). Issue: Whether the Board clearly erred in Decision No. 2300-H (holding that the Regents violated HEERA by unilaterally changing rules regarding the leafleting activities of AFSCME Local 3299 on sidewalks adjacent to hospital entrances at University of California, San Francisco medical center)? On January 18, 2013, the Regents filed a petition for writ of extraordinary relief. Briefing was completed on August 22, 2013. The petition was summarily denied on September 4, 2013. The case is complete.
5. *City of Long Beach v. PERB; IMAW Local 1930, District 947*, California Court of Appeal, Second Appellate District, Division One, Case No. B245981; PERB Decision No. 2296-M (PERB Case No. LA-CE-537-M). Issue: Whether the Board clearly erred in Decision No. 2296-M (affirming a proposed ALJ decision finding that the City violated the MMBA by unilaterally imposing a 5-day furlough on employees represented by IMAW, and directing the City to make whole the affected employees)? On January 3, 2013, the City filed a petition for writ of extraordinary relief. Briefing was completed on July 31, 2013. On May 14, 2014, the Court issued an "Order to Show Cause" asking PERB to file a written Return by June 3, 2014. PERB and IMAW both filed Responses>Returns on June 3, 2014. The City filed its response on June 23, 2014. Oral argument was held on August 20, 2014. The opinion of the Court was issued on August 29, 2014, denying the City's petition and awarding IMAW costs.
6. *County of Riverside v. PERB; SEIU Local 721 (Wendy Thomas)*, Los Angeles Superior Court, Case No. BS143081 (PERB Case No. LA-CE-787-M). Issue: Whether PERB's hearing on the underlying retaliation charge, PERB Case No. LA-CE-787-M, which was scheduled to begin on May 28, 2013, should be enjoined because the termination of the employee was also subject to a disciplinary appeal which was set to be heard by an arbitrator in August 2013? On May 24, 2013, the County filed a writ petition and served an ex parte application seeking to stay the scheduled PERB hearing until after the arbitration was completed. The ex parte application was withdrawn pursuant to a settlement between the parties that allowed the PERB hearing to proceed as scheduled, with the disciplinary appeal placed in abeyance until PERB's administrative process and all related judicial appeals are exhausted. The court issued an Order to Show Cause (OSC) re dismissal of the court action as moot, to be heard on July 2, 2013. On July 1, 2013, the County filed a request for dismissal without prejudice. This case is now complete.
7. *County of Riverside v. PERB; SEIU Local 721*, Riverside Superior Court, Case No. RIC1305661 (PERB Case No. LA-IM-127-M). Issues: Whether AB 646 is unconstitutional on its face or as applied, and whether the General Counsel's office misinterpreted the factfinding provisions of the MMBA as applying to an impasse in

bargaining over the effects of a new policy requiring criminal background checks for County IT professionals? On May 13, 2013, the County served PERB with a writ petition and complaint for injunctive and declaratory relief seeking to invalidate the statutory factfinding provisions enacted by AB 646, and the General Counsel's office determination that SEIU's factfinding request was timely and sufficient. PERB filed an answer to the petition/complaint on June 12, 2013. Ruling from the bench on September 13, 2013, the court denied PERB's anti-SLAPP motion, and denied the County's Motion 1, in which the County claimed that AB 646 was unconstitutional. However, the court granted the County's Motion 2, in which the County claimed that AB 646 factfinding does not apply to impasses in bargaining over the effects of a non-negotiable decision (in this case, to implement a new background check policy for correctional officers), or to other similar "single-subject" bargaining disputes. The court also issued a 30-day stay of discovery, and ordered the parties to meet and confer re the balance of the case and return for a status conference on October 16, 2013. The County and PERB filed competing Proposed Orders embodying the court's rulings from the bench. On or about October 2, 2013, counsel for SEIU withdrew the underlying factfinding request. On November 14, 2013, the Superior Court entered its final orders as to Motion Nos. 1 and 2, denying the former and granting the latter, and orders denying PERB's anti-SLAPP motion and motion for sanctions. On November 15, 2013, PERB filed a notice of appeal from the order on Motion No. 2, and invoked the automatic stay of Code of Civil Procedure section 916(a) as to the writ and mandatory injunction entered. On December 18, 2013, the County filed a notice of appeal as to the ruling on Motion No. 1, and requested voluntary dismissal of its final cause of action for breach of the settlement agreement. Final judgment in the case was entered on December 26, 2013. Notice of entry of the "one, final judgment" was filed and served on December 31, 2013. The trial court issued and confirmed tentative rulings granting PERB's motion to tax costs in its entirety, and denying the County's request for \$150,000 in attorney fees under Code of Civil Procedure section 1021.5, but granting the County's motion seeking \$15,000 in attorney fees under the anti-SLAPP statute based on its denial of PERB's anti-SLAPP motion. The fee orders have now been issued by the Superior Court and these matters will in fact be consolidated into the current appeal.

8. *County of Riverside v. PERB; SEIU Local 721 (Factfinding)*, November 15, 2013, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E060047; Riverside Superior Court Case No. RIC 1305661 [UPC No. LA-IM-127-M]. Issue: Whether the trial court abused its discretion by issuing a permanent injunction and writ of mandate, with statewide effect, directing PERB to dismiss all pending MMBA factfinding requests arising from any bargaining dispute involving less than a comprehensive MOU, and to deny all such requests in the future? In the County's cross-appeal, the issue is whether the trial court erred as a matter of law by rejecting the plaintiff's claim that AB 646 is unconstitutional. On November 15, 2013, PERB filed a notice appeal. SEIU filed its own notice of appeal on January 2, 2014. On December 18, 2013, the County filed a notice of appeal. PERB's form of final judgment was entered in the Superior Court on December 26, 2013, and additional notices of appeal from rulings adverse to PERB were subsequently filed. The Court ordered a briefing schedule for the cross-appeals, including

any appeals that may arise after the hearing on the attorney fees/costs motions. Opening Briefs were due on October 6, 2014.

9. *IBEW Local 18 v. PERB; City of Glendale*, Los Angeles Superior Court, Case No. S141968 [PERB Case Nos. LA-IM-119-M & LA-IM-120-M]. Issue: Whether a writ of mandate should issue to set aside a determination issued by the PERB General Counsel's office on January 4, 2013, finding that IBEW's factfinding request as to an impasse in bargaining for a first contract between IBEW and the City was untimely? On or about March 19, 2013, IBEW filed a petition for writ of mandate. An amended petition was filed on June 3, 2013. On July 8, 2013, PERB filed a demurrer to the amended petition. Both the City and PERB filed reply briefs on October 3, 2013. On or about December 12, 2013, the trial court sustained PERB's demurrer without leave to amend. A trial date of December 17, 2013, previously set in this matter, was vacated, and the case is complete as to the Superior Court.
10. *San Diego Housing Commission v. PERB; SEIU Local 221*, San Diego Superior Court Case No. 37-2012-00087278-CU-MC-CTL (PERB Case Nos. LA-IM-116-M). Issue: Whether PERB erred by interpreting the new MMBA factfinding procedures created by AB 646 as applicable to an impasse in the parties' negotiations over the impact and effects of a layoff? On December 17, 2012, the Commission filed a petition for writ of mandate and complaint for declaratory relief (Petition), and noticed an ex parte hearing to stay the factfinding process. On or about February 25, 2013 the Commission filed an amended petition. The Commission filed a motion for summary judgment. PERB filed its opposition to the Commission's motion on January 16, 2014. On January 31, 2014, the court granted the Commission's motion for summary judgment. The Superior Court entered judgment on San Diego Housing Commission's (SDHC) motion for summary judgment and writ of mandate on April 22, 2014. SDHC set a motion for attorney fees under Code of Civil Procedure section 1021.5. SDHC also filed a memorandum of costs. PERB filed a motion to tax costs on June 4, 2014. Oral argument was conducted on June 27, 2014, and the Court denied the SDHC's motion for attorney fees and partially granted PERB's Motion to Tax Costs, awarding SDHC only approximately \$500 in costs.
11. *San Diego Housing Commission v. PERB; SEIU Local 221*, July 7, 2014, California Court of Appeal, Fourth Appellate District, Division One, Case No. D066237; San Diego County Superior Court, Case No. 37-2012-00087278-CU-MC-CTL; Factfinding [PERB Case No. LA-IM-116-M]. Issue: Whether the San Diego Superior Court erred by granting the Commission's motion for summary judgment and determining that PERB's factfinding determination as to a "single issue" was erroneous? PERB filed its Notice of Appeal on July 7, 2014. SDHC subsequently filed its appeal of the Superior Court's Order denying attorney fees and also filed a Notice of Appeal regarding the Superior Court's granting in part PERB's Motion to Tax Costs.
12. *PERB v. AFSCME Local 3299 & UPTE-CWA Local 9119 (University of California)*, Sacramento Superior Court Case No. 34-2013-00143801; Injunctive Relief (IR) Request Nos. 635 & 636 (UPC Nos. SF-CO-186-H & SF-CO-187-H & SF-CO-199-H).

Issues: Whether AFSCME should be enjoined from calling a two-day strike in the Patient Care Technical (EX) unit, and UPTE should be enjoined from calling a one-day sympathy strike in the Health Care Professionals (HX) unit at the five UC Medical Centers on May 21 and 22, 2013, following ten-day strike notices served on UC on or about May 10, 2013, because such would entail a work stoppage by “essential employees” within the meaning of *County Sanitation*? UC’s IR Request Nos. 635 and 636 were granted, in part, on May 16, 2013, as to the EX and HX units only, and only to the extent the University has clearly demonstrated that members of those units are “essential” employees within the meaning of *County Sanitation Dist. No. 2 v. Los Angeles County Employees Ass’n* (1985) 38 Cal.3d 564—i.e., employees whose job duties cannot be covered for the duration of the two-day strike by supervisors or other UC employees outside the EX and HX units (e.g., physicians or registered nurses [RNs]) or qualified replacements from local registries or national striker replacement companies, and whose absence from work during the strike will create a substantial and imminent threat to the health or safety of the public.” (*Id.* at p. 586.) A complaint for injunctive relief was filed in Sacramento Superior Court on May 17, 2013. PERB’s ex parte application for a Temporary Restraining Order (TRO)/OSC was heard on May 20, 2013, and granted in substantial part. On June 12, 2013, the Superior Court issued a tentative ruling to grant PERB’s request for a preliminary injunction. Neither UC nor the Unions contested the tentative ruling, and it became a final order of the court, which was entered on June 27, 2013. The General Counsel’s Office obtained a preliminary injunction against a further one-day ULP strike by the EX and SX units on November 20, 2013, based on IR Request Nos. 646 and 647, and a stipulation that the then-existing preliminary injunction applied. A stipulation to continue the June 27, 2013 preliminary injunction in effect for another 90 days, or until UC and AFSCME settled on an MOU, was thereafter filed and approved by the Superior Court on December 3, 2013. On March 14, 2014, UC filed IR Request Nos. 655 and 656, seeking to enjoin a 5-day primary strike by the SX Unit, and a sympathy strike by the EX Unit, noticed for March 3-8, 2014. That strike was averted when UC settled its contract with the SX Unit. On March 21, 2014, at the direction of the Board pursuant to IR Request No. 656, Member Banks dissenting, the General Counsel’s office went back to Sacramento Superior Court and obtained a new TRO limited to the same 49 employees (plus a few additional agreed employees) against a strike that was threatened in the EX Unit only for March 24-29, 2014. On March 23, the parties settled on a TA for a 4-year successor MOU for the EX Unit, and the strike notice was withdrawn. PERB’s Request for Dismissal was entered on April 18, 2014.

13. *PERB v. City of Fremont (SEIU Local 1021)*, Alameda Superior Court, Case No. RG 13677821 (PERB Case No. SF-CE-1028-M). Issues: Whether the City should be enjoined from withdrawing recognition and refusing to bargain with SEIU following a “disaffiliation” election—conducted in March 2013 by an individual City employee—based on claims that City interfered with the representational rights of SEIU and its members in a bargaining unit known as the Fremont Association of City Employees (FACE) by processing and approving a defective decertification petition for which the City itself would run the election pursuant to local rules, and that the City subsequently advised the decertification petitioner how to proceed with the disaffiliation process?

SEIU's IR Request No. 633 was granted by the Board on April 15, 2013. A complaint for injunctive relief was filed in Alameda Superior Court on May 1, 2013. On May 3, 2013, PERB filed an Ex Parte Application for TRO and OSC re Preliminary Injunction. On May 7, 2013, the Court issued the TRO "Granting in Part and Denying in Part," PERB's requested relief. On May 10, 2013, SEIU filed a Motion to Intervene, which was granted by the Court. On May 29, 2013, the Superior Court issued an order granting preliminary injunction. On June 5, 2013, the City filed with the Superior Court a notice of appeal of the order granting preliminary injunction. On July 12, 2013, SEIU filed an Ex Parte Application for OSC re Contempt and Motion for Monetary Sanctions regarding the City's refusal to negotiate a successor MOU. The City opposed SEIU's application, asserting that the preliminary injunction was automatically stayed by the City's appeal. On July 23, 2013, the Superior Court issued an order denying SEIU's Ex Parte Application for OSC re Contempt and Motion for Monetary Sanctions. On August 26, 2013, PERB filed an ex parte application for a 90-day extension of the preliminary injunction. The court summarily denied the application on August 30, 2013. On November 27, 2013, SEIU filed a memorandum of costs that it had incurred in helping prepare the record to support PERB's petition for writ of supersedeas. The City thereafter filed a Motion to Tax SEIU's Costs, which was heard on April 9, 2014, taken under submission, and granted in full on April 11, 2014 because only PERB, and not SEIU, was granted costs on appeal.

14. *PERB v. City of Fremont (SEIU Local 1021)*, Court of Appeal, First Appellate District, Case No. A138888 (PERB Case No. SF-CE-1028-M). On June 5, 2013, the City filed an appeal of the preliminary injunction issued in Alameda County Superior Court No. RG13677821. On August 26, 2013, PERB filed a Petition for Writ of Supersedeas or Other Appropriate Relief with the Court, to enforce the preliminary injunction, on the grounds that it was not automatically stayed by the City's appeal, or, if it was automatically stayed, to lift the stay. PERB's writ petition was denied on September 5, 2013. The City requested voluntary dismissal of its appeal on October 30, 2013. The Court of Appeal entered a dismissal with prejudice on October 31, 2013, and the case is now complete.
15. *PERB v. City of Fremont (SEIU Local 1021)*, October 15, 2013, California Court of Appeal, First Appellate District, Division Four, Case No. A139991; Alameda Superior Court Case No. RG 13677821; IR Request No. 633 [UPC No. SF-CE-1028-M]. Issue: Whether the trial court abused its discretion by refusing to renew the preliminary injunction it issued in May 2013, requiring the City of Fremont to maintain the status quo pending completion of PERB's administrative proceedings. The ruling challenged on appeal was apparently based on a finding that the preliminary injunction was mandatory in nature and, thus, subject to the automatic stay of Code of Civil Procedure section 916(a), upon the filing by the City of its appeal in Court of Appeal Case No. A138888, and the Superior Court's refusal to lift the stay upon a showing by PERB that the preliminary injunction was clearly a prohibitory injunction, designed and intended to maintain the status quo that existed before the events alleged in the UPC began in November 2012. On October 15, 2013, PERB filed a notice of appeal from the August 30, 2013 Superior Court order refusing to extend the preliminary injunction. The Court of Appeal approved use of the Superior Court

record prepared as a clerk's transcript for the City's appeal in Case No. A138888. Briefing was completed on May 28, 2014. Oral argument has not yet been scheduled.

16. *PERB v. SEIU Local 1021 (City of Hayward)*, August 9, 2013, Alameda Sup. Ct. Case No. RG 13691249; IR Request No. 640 [UPC Nos. SF-CO-320-M, SF-CE-1075-M, SF-CE-1092-M, SF-CE-1098-M]. Issue: Whether SEIU should be enjoined from calling for and conducting a strike beginning on August 12, 2013, based on the City's allegations that it would be an unlawful pre-impasse strike involving "essential" employees, whereas the Union has filed numerous UPCs and claims the strike would be a lawful UPC strike and that all statutory impasse procedures have been exhausted. After extensive negotiations with the parties, including two informal conferences to discuss the issue of any "essential employees" who should not be permitted to strike, the Board granted the City's IR request in part, and directed the General Counsel's office to proceed to court to obtain an injunction based on the parties' stipulation as to the essentiality of certain classifications of City employees. On August 13, 2013, the Superior Court granted PERB's ex parte application for a TRO against a strike by "essential" City employees, as designated in the parties' stipulation. A Case Management Conference (CMC) was conducted on May 22, 2014, and the Superior Court Judge issued a stay of proceedings. A further CMC is currently set for November 21, 2014.
17. *CDF Firefighters v. State of California (Department of Forestry & State Personnel Board)*, August 26, 2013, Sacramento Sup. Ct. Case No. 34-2013-80001607, PERB Decision No. 2317-S [UPC No. SA-CE-1896-S]. Issue: Whether the Board erred in Decision No. 2317-S by affirming a Board Agent's dismissal of a charge filed by CDF Firefighters (CDFFF) alleging that SPB violated the Dills Act by unilaterally amending the regulations under which SPB conducts disciplinary proceedings for employees represented by CDFFF, without meeting and conferring in good faith? The Board held that the charge was properly dismissed by the Board agent because SPB does not have a duty to meet and confer with exclusive representatives of non-SPB employees. After having erroneously filed a petition for writ of extraordinary relief in the California Court of Appeal for the Third Appellate District, CDFFF filed a petition for writ of traditional writ of mandamus in Sacramento Superior Court on August 26, 2013. PERB's answer to the petition was filed on September 25, 2013. Briefing was completed on August 18, 2014 and oral argument occurred on September 12, 2014. The Court has not yet rendered a decision.
18. *Los Angeles Unified School District v. PERB; CSEA Ch. 500*, October 18, 2013, California Court of Appeal, Second Appellate District, Division Four, Case No. B251986; PERB Decision No. 2326 [UPC No. LA-CE-5419-E]. Issue: Whether the Board clearly erred in its Decision No. 2326, in concluding that Los Angeles Unified School District (LAUSD) committed an unfair practice in violation of EERA by implementing, as part of its LBFO, a bargaining proposal by which it had sought to retain unfettered discretion over a mandatory subject of bargaining, a provision to which CSEA had previously agreed to, but refused to agree in the current course of bargaining? LAUSD filed a petition for writ of extraordinary relief on October 18, 2013. The administrative record was filed on December 11, 2013. LAUSD's corrected opening brief was filed on March 10, 2014. PERB's brief was originally

due on May 29, 2014, pursuant to a stipulation for an extension of time, but PERB requested and was granted a further extension of time. PERB's brief was filed on June 11, 2014. CSEA's Respondent's Brief was filed on June 14, 2014. LAUSD's Reply Brief was due to be filed on October 7, 2014.

19. *Shasta County Superior Court v. UPEC*, November 2013, IR Request No. 649 & 650; UPC Nos. SA-CO-3-C and SA-CO-4-C. Issue: Whether certain court reporters were "essential employees" who should be enjoined from engaging in a court employee strike called by UPEC against the Shasta Superior Court on November 18 and 19, 2013? IR Request No. 649 and UPC No. SA-CO-3-C, were withdrawn on November 15, 2013. During a further ex parte hearing scheduled by and held in the Shasta Superior Court on November 19, 2013, a judge granted the Shasta Superior Court's request for a TRO as to 7 court reporters the Shasta Superior Court itself deemed essential. IR Request No. 650 was denied on November 25, 2013. On December 6, 2013, the same judge granted the Shasta Superior Court's request for a preliminary injunction as to 7 court reporters the judge deemed essential, notwithstanding that the Board's determination that the grounds asserted by the Court were insufficient to warrant an injunction.
20. *County of Riverside v. PERB; John Brewington*, November 18, 2013, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E060017, PERB Decision No. 2336-M [UPC No. LA-CE-261-M]. Issue: Whether the Board clearly erred in Decision No. 2336-M [holding that the County failed to comply with the Board's final remedial orders in a prior case, *County of Riverside* (2009) PERB Decision No. 2090-M, in which the Board held that the County had unlawfully retaliated against Brewington for engaging in protected activities, and ordering the County to pay Brewington his full salary and benefits dating back to May 5, 2008, when the proposed decision affirmed by the Board in 2009 would have become final but for the County's unsuccessful petition for writ of extraordinary relief in the same Court of Appeal, Case No. E050056]? On November 18, 2013, the County served PERB with a petition for writ of extraordinary relief from Decision No. 2336-M. The administrative record was filed on January 31, 2014. Briefing was completed on September 2, 2014. The Court of Appeal summarily denied the County's Writ Petition three days later on September 5, 2014.
21. *Children of Promise Academy v. PERB; CSEA & Ch. 500*, December 6, 2013, California Court of Appeal, Second Appellate District, Division Three, B252854; PERB Decision No. Ad-402 [PERB Case No. LA-RR-1213-E]. Issue: Whether the Board clearly erred in its Decision No. Ad-402, upholding a Board Agent's determination, without a hearing, that the proposed certificated unit of teachers in this charter school is appropriate, based on the District's failure to present any admissible evidence in response to an Order to Show Cause to support its claim that four of the eight positions in the proposed unit are "managerial"? The Academy filed a petition for writ of review on December 6, 2013. On December 12, 2013, without waiting for record preparation to be completed, the Court of Appeal summarily denied the petition, and the case is now complete.

