



PUBLIC EMPLOYMENT RELATIONS BOARD

2012-2013 ANNUAL REPORT

October 15, 2013



EDMUND G. BROWN JR., GOVERNOR

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

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Board Members

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

*Current Board Members

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PUBLIC EMPLOYMENT RELATIONS BOARD

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October 15, 2013

Dear Members of the State Legislature and fellow Californians:

The 2012-13 fiscal year was filled with change, growth and opportunity. With the appointments of Priscilla S. Winslow and Eric R. Banks on February 1, 2013, the Board was up and running again after a short quorum-less period following the departure of Alice Dowdin-Calvillo when her term expired on December 31, 2012. The Board now has a full complement of Brown appointees who share the vision and policy objectives of the current administration. The singular distinction of this Board is its collective experience in California labor relations—approximately 123 years!

This past year equally has been marked as a time of transition. Via retirements, three of PERB's most cherished and valuable long-time employees, Les Chisholm, Eileen Potter and Tom Allen, left the agency. Eileen, PERB's Chief Administrative Officer, graciously agreed to stay on as a retired annuitant into the 2013-2014 fiscal year to complete critical projects and keep the Board on the stable course she has piloted since 1993. Tom worked as a regional attorney and then as an administrative law judge. His expertise, enthusiasm for the work, mentoring of new judges and commitment to the mission of the agency will be sorely missed. Les served the agency as Division Chief in the Office of General Counsel and before that, as the Sacramento Regional Director. Les quickly became PERB's go-to guy on everything from rule-making and representation issues, to settlement strategy and charge investigation. He was instrumental in creating PERB's website and case management system, and served as PERB's legislative contact. Perhaps as important as any of the above, Les served as PERB's conscience, guiding this agency through various administration and personnel changes, always with his clear-eyed commitment to bringing his reservoir of experience and expertise to every issue thrown his way, large or small, and getting it all right.

The loss (and prospective loss, in Eileen's case) is felt by all. With loss, however, comes growth. It is with great pleasure and pride I report that Tom's position was filled with the promotion of a talented, long-time PERB regional attorney. And each regional office is now led by a senior regional attorney. We also welcomed on board the Division of State Mediation and Conciliation Service (SMCS), moved by legislative directive from the Department of Industrial Relations (DIR) to PERB effective July 1, 2012. With this change, PERB added 12 new members to our staff!

Turning to the work of our divisions, PERB's most valuable asset is its professional and administrative staff. We are faithful to PERB's mission and dedicated to the work. We share the belief that through the expert, fair and efficient manner in which public sector labor relations disputes are resolved and/or adjudicated at PERB, we do our part to reinforce public employers' and public employees' commitment to public service.

Under the leadership of General Counsel M. Suzanne Murphy, the Office of the General Counsel has worked diligently to investigate and process unfair practice charges and representation petitions, and to conduct informal settlement conferences and elections. In addition, the Office of the General Counsel continues to manage a full assortment of litigation projects involving complex issues of law and policy, including requests for injunctive relief and petitions for writ of review. In addition, the Office of the General Counsel successfully completed several rulemaking packages, which entailed drafting proposed regulations, providing the public with notice and opportunity to comment at public hearings, and submitting the final package to the Office of Administrative Law for approval following the Board's vote. On July 30, 2012, permanent regulations implementing Assembly Bill 646, which provide for mandatory fact-finding on request by the employee organization, went into effect. On July 1, 2013, miscellaneous regulations became effective along with regulations necessary to reflect the transfer of responsibility for SMCS from DIR. The Office of the General Counsel also proposed a set of regulations regarding appeals from Meyers-Milius-Brown Act (MMBA) fact-finding sufficiency determinations and another set of regulations on representation and agency shop elections conducted by SMCS. A public hearing was held in June 2013, at which time the Board voted to adopt the regulations as proposed.

Under the leadership of Chief Administrative Law Judge Shawn Cloughesy, the Division of Administrative Law achieved a new record high in proposed decision issuances. In the 2012-2013 fiscal year, six administrative law judges issued 76 proposed decisions. This has been the highest number of proposed decisions issued since 1982-1983, when a minimum of ten administrative law judges wrote 77 proposed decisions. Parties who appear at formal evidentiary hearings before PERB administrative law judges are well-served by their dedication, commitment and professionalism.

Under the leadership of newly promoted Division Chief Loretta van der Pol, the Division of State Mediation and Conciliation Service gracefully weathered the transition from DIR to PERB. They are a delightful, experienced and cohesive addition to our staff! By their hard work in settling bargaining disputes, and conducting elections, they serve the core mission of the agency in promoting harmonious labor relations. Their success often means the avoidance of PERB charges, grievances and work actions. Moving SMCS into PERB made for a perfect programmatic fit.

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Under the leadership of Chief Administrative Officer Eileen Potter, the Division of Administration had its hands full. Two office expansion and remodel projects were launched in the Glendale and Oakland regional offices. It is impossible to recount the massive amount of work each project entailed, from re-negotiating leases to working with the state architect in ensuring that the plans and design satisfied the needs of the agency. We can report, however, that as a result, our regional offices are growing in space and function. If I had to pick just one major accomplishment of the Division of Administration from fiscal year 2012-2013, it would be the full integration of SMCS into PERB. Because mediators work primarily from their homes, the Division of Administration worked tirelessly to make new arrangements to support their work in many ways, including the design of a new case management system.

Finally, under my leadership this past fiscal year, the Board itself has been extremely busy. We held Advisory Committee meetings in the north and the south to accommodate and involve our constituents, and we held a regularly noticed public Board meeting at the Claremont Hotel as part of the annual Public Sector conference sponsored by the State Bar. In June 2012, the Board held its first oral argument since 2004. I invite you to read through the descriptions of the many interesting cases we decided in the Case Disposition section of this report under Board Decisions.

As we enter the 2013-2014 fiscal year, we are encouraged by the commitment demonstrated by public employers, employee organizations and employees in delivering quality public services. Only through their hard work, cooperation and mutual respect is this possible. We are also appreciative of the Governor's and the Legislature's continued recognition of the important role that public sector collective bargaining plays in stabilizing public employment and ensuring the delivery of quality public services. As we meet coming challenges, like the expansion in PERB's jurisdiction under the In-Home Supportive Services Employer-Employee Relations Act enacted by Senate Bill 1036, we do so with renewed energy and enthusiasm and with the hope and expectation that public sector labor relations will continue to enjoy the support of our constituents for whom we serve.

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) 322-3198 for any further information.

Respectfully submitted,



Anita I. Martinez
Chair

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 Member and Chair of the Board. 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 the conduct of 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 2013.

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 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 from 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, 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.

Alice Dowdin Calvillo was appointed to the Board by Governor Arnold Schwarzenegger in January 2008, confirmed by the Senate in January 2009, and served as Chair of the Board from May 2009 until May 2011. Ms. Dowdin Calvillo has more than 25 years of experience working in State and local government. Since 2005, Ms. Dowdin Calvillo served in several senior level advisory positions to Governor Schwarzenegger, including as Chief Deputy Cabinet Secretary and Chief Deputy Appointments Secretary. Before joining the Governor's Office, she was Legislative Director for the California Department of Toxic Substances Control.

Governor Pete Wilson appointed Ms. Dowdin Calvillo as a Chief Advisor to the California Integrated Waste Management Board in early 1998 and prior to that she was his appointment as Deputy Director of Legislation and Operations for the Managed Health Care Improvement Task Force. Ms. Dowdin Calvillo also served as the Chief Consultant to the California State Assembly Consumer Protection, Governmental Efficiency and Economic Development Committee in the mid 1990s. Before joining the Assembly staff, Ms. Dowdin Calvillo served in a variety of senior analytical positions within State service.

Ms. Dowdin Calvillo served two terms on the Auburn City Council from 1998-2005 and was Mayor in 2001 and 2005. During her tenure on the City Council, Ms. Dowdin Calvillo served on several commissions and committees, including the Placer County Economic Development Board (where she also served as Chair), Board of Directors for the Sacramento Area Council of Governments, Regional Wastewater Treatment and Storage Facility Joint Powers Authority, and Local Agency Formation Commission for Placer County. In addition, she was a member of the Sacramento Region Advisory Board for the Great Valley Center.

The Placer County Board of Supervisors appointed Ms. Dowdin Calvillo as the District 3 representative on the Placer County Parks Commission in 1997, where she served as its Chair in 1999 and 2000.

Ms. Dowdin Calvillo obtained her Bachelor of Arts in Political Science-Public Service and in German from the University of California, Davis. Ms. Dowdin Calvillo's term expired in 2012.

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 at 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.

Dorothy Bacskai Egel was appointed as Legal Advisor to Board Chair Tiffany Rystrom in May 2009 and served at the pleasure of the Board until May 2012 as Legal Advisor to Members Karen L. Neuwald, Kari Miner and Alice Dowdin Calvillo, respectively. Previously, Ms. Egel served as Staff Counsel IV to the California State Personnel Board, where she worked from 1995 to 2009. Prior to entering state service, Ms. Egel practiced labor and employment law with the firm of Cook, Brown, Rediger and Prager from 1987 to 1995. Ms. Egel received her Juris Doctor degree from Boalt Hall School of Law, University of California, Berkeley. She also holds a Masters of Public Policy from the Graduate School of Public Policy and a Bachelor of Arts degree in Political Economy of Industrial Societies, both from the University of California, Berkeley. Ms. Egel is a member of the editorial board of the California Labor and Employment Law Review.

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 nonprofit 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 and 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 A.B. degree in Human Biology, with distinction, from Stanford University in 1975. She received her J.D. degree from Boalt Hall School of Law in 1988, and was admitted to the Order of the Coif.

Wendi L. Ross joined PERB as Deputy General Counsel in April 2007 and has more than 20 years of experience practicing labor and employment law. Ms. Ross was employed for over ten years by the State of California, Department of Personnel Administration 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 U.C. Davis and her law degree from UOP, 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 U.C. Davis Extension.

Shawn P. Cloughesy is the Chief Administrative Law Judge for PERB. He has 19 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.

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.

Eileen Potter began working for PERB in 1993 as the Administrative Officer. Her state service includes the Governor's Office of Planning and Research (OPR) from 1979 through 1990 culminating in her appointment as the Assistant Chief of Administration. After leaving OPR, Ms. Potter worked at the Office of Statewide Health Planning and Development and the Department of Health Services before coming to PERB as its Administrative Officer. Ms. Potter retired in June 2012. She has a degree in Criminal Justice Administration with minors in Accounting and English from California State University, Sacramento.

Les Chisholm served as the Division Chief, Office of the General Counsel, for PERB until his retirement in June 2013 and had also served as Sacramento Regional Director since 1987. His duties included investigation of representation cases and unfair practice charges, and conduct of settlement conferences and representation hearings and elections. Mr. Chisholm also had responsibilities in the areas of legislation, rulemaking and technology projects for the Board. He received a B.A. from Florida Atlantic University and M.A. in political science from the University of Iowa.

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: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code, § 3540 et seq.), authored by State Senator Albert S. Rodda, establishing 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) (Gov. Code, § 3512 et seq.), establishing collective bargaining for State employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code, § 3560 et seq.), authored by Assemblyman Howard Berman, extending 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 Meyers-Milias-Brown Act (MMBA) of 1968 (Gov. Code, § 3500 et seq.), 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 the supervisory employees of the Los Angeles County Metropolitan Transportation Authority. The Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) is codified at Public Utilities Code section 99560 et seq.

Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 (Gov. Code, § 71600 et seq.) and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002 (Gov. Code, § 71800 et seq.).

PERB's jurisdiction and responsibilities were changed in late June 2012 by the enactment of Senate Bill 1036. Senate Bill 1036, in relevant part, enacted the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA) (Gov. Code, § 110000 et seq.). 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, the Los Angeles County Metropolitan Transportation Authority.

Effective July 1, 2012, Senate Bill 1038, inter alia, 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, states 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 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;
- prevent and remedy unfair labor 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 2012-2013 decisions is included in the Appendices, beginning at page 30.

Major PERB Functions

The major functions of PERB involve: (1) the investigation and resolution 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 SMCS.

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 EERA, Dills Act, 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, 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 Administrative Law Judge (ALJ) is scheduled. A hearing usually 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, except as otherwise designated by a majority of the Board members issuing the decision pursuant to PERB Regulation 32320, subdivision (d), are precedential. All but non-precedential Board decisions are available on our website (<http://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 holds 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 assist 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 2012-2013 representation activity is included in the Appendices at 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 2012-2013 litigation activity is included in the Appendices, beginning at page 54.

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.

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.

Support Functions and Board Operations

The Administration Section provides support services to PERB, such as business services, personnel, accounting, information technology, mail, and duplicating. This section also handles budget development and maintains liaison with the Department of Finance and other State agencies.

PERB emphasizes use of technology as a means of increasing productivity and, therefore, has moved forward with the full development of its website. PERB's website now provides the ability to access PERB decisions, regulations, statutes, and forms online.

III. LEGISLATION AND RULEMAKING

Legislation

Assembly Bill 1471 (Chapter 439, Statutes of 2012) amended the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA) to exclude from the scope of representation providing assistance to in-home supportive services (IHSS) recipients through the establishment of emergency backup services. This bill also clarified that once the Statewide Authority, established pursuant to Chapter 45, Statutes of 2012, is implemented in a county, predecessor agencies may no longer meet and confer with recognized employee organizations of IHSS providers.

Assembly Bill 74 (Chapter 21, Statutes of 2013) amended IHSSEERA at section 110032 to provide that once mediation and factfinding have been completed, the Statewide Authority may implement any or all of its last, best, and final offer. However, any proposal that would conflict with existing statutes or require the expenditure of funds must be presented to the Legislature for approval.

Assembly Bill 1606 (Chapter 314, Statutes of 2012) included amendments to the Meyers-Milias-Brown Act (MMBA) factfinding process that were technical and clarifying of existing law. The bill clarified that if the dispute was not submitted to mediation, the employee organization may request factfinding not later than 30 days of a written declaration of impasse. This bill also specified that the right to request a factfinding panel cannot be expressly or voluntarily waived.

Senate Bill 1308 (Chapter 665, Statutes of 2012) included amendments to Educational Employment Relations Act (EERA), Higher Education Employer-Employee Relations Act (HEERA), and the Ralph C. Dills Act (Dills Act) necessary to reflect changes made by the Governor's Reorganization Plan No. 1.

Governor's Reorganization Plan 2 (GRP 2), submitted to the Legislature on May 3, 2012, states 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.

Rulemaking

Assembly Bill 646 (Statutes of 2011, Chapter 680)

In October 2011, PERB staff began meeting with interested parties regarding proposed changes required by amendments to the MMBA, which provides for a factfinding process under the MMBA.

Effective December 29, 2011, PERB's proposed emergency regulations—necessary to implement changes made by Assembly Bill 646—were approved by the Office of Administrative Law (OAL). PERB subsequently submitted a regular rulemaking package to OAL for adoption of permanent regulations, notified interested parties of the changes being

considered, held a public hearing on the proposed regulations, and adopted the proposed regulations without modification. The regular rulemaking process was completed and approved by OAL on July 30, 2012, and the regulations were submitted to the Secretary of State for publication. The regulations were effective on filing with the Secretary of State, on July 30, 2012.

General Regulation Changes

The Board held a public hearing on December 13, 2012, concerning general proposed changes. The changes included in this regulation package fall generally into one of the following subject categories: (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.

At the December 2012 meeting, the Board voted to adopt the changes as proposed. The final regulation package was filed with OAL on February 1, 2013. On March 18, 2013, OAL approved the rulemaking file and submitted the file to the Secretary of State. These regulation changes became effective July 1, 2013.

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

Senate Bill 1038 (Statutes of 2012, Chapter 46) transferred the State Mediation and Conciliation Service (SMCS) from the Department of Industrial Relations (DIR) to PERB. In part, Senate Bill 1038 provides, at Government Code section 3603(c), that “The regulations of the Director of Industrial Relations at Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations shall remain in effect and shall be deemed to be regulations of the Public Employment Relations Board.” The regulations identified in Government Code section 3603(c) address, respectively, representation procedures for those transit districts that are not subject to the MMBA, and the current reimbursement for services policy of SMCS.

This rulemaking effort makes necessary changes simply to reflect the transfer of responsibility from the DIR Director to PERB and to update/correct statutory references. The only substantive change, other than those required by enactment of Senate Bill 1038, concerns the elimination of charges by SMCS for the conduct of representation (certification, decertification, etc.) elections, card check procedures, and agency shop elections. A public hearing was held on December 13, 2012, concerning the proposed changes. At the December meeting, the Board voted to adopt the changes as proposed. The final regulation package was filed with OAL on February 1, 2013. On March 18, 2013, OAL approved the rulemaking file and submitted the file to the Secretary of State. These regulation changes became effective July 1, 2013.

Appeals from MMBA Factfinding Sufficiency Determinations

The Board held a public hearing on June 13, 2013, 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.

At the June 2013 meeting, the Board voted to adopt the changes as proposed. A regulation package containing these proposed changes was submitted to OAL for review on July 12, 2013. OAL approved the regulation package and filed these regulations with the Secretary of State on August 22, 2013. These regulations will become effective October 1, 2013.

Representation and Agency Shop Elections Conducted by SMCS

The Board held a public hearing on June 13, 2013, concerning the proposed changes addressed by this rulemaking package. These proposed changes concern 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 proposed regulations define "Parties," describe ballots, and provide for stays of an election, notice requirements, voter list requirements, voter eligibility requirements, challenge processes, tallying of ballots, resolution of challenges, objection processes, hearings on objections and challenges, and filing of exceptions to decisions on objections and challenges.

At the June 2013 meeting, the Board voted to adopt the changes as proposed. A regulation package containing these proposed changes was submitted to OAL for review on July 12, 2013. OAL approved the regulation package and filed these regulations with the Secretary of State on August 19, 2013. These regulations will become effective October 1, 2013.

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 2012-2013, 678 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 2012-2013, 182 cases (27% of 682 charge investigations completed) were withdrawn, many through informal resolution by the parties. PERB staff also conducted 303 days of settlement conferences for cases in which a complaint was issued. These efforts resulted in voluntary settlements (withdrawals) in 158 cases (approximately 48% of the 330 cases closed after issuance of a complaint and prior to a hearing).

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 voluntary mediation are sent to the Division of Administrative Law for an evidentiary hearing before an ALJ. In 2012-2013, 6 ALJs issued 76 proposed decisions, averaging 128 days to render a decision. Of the 76 proposed decisions, 42 percent were appealed to the Board. The Division closed 164 cases.

Board Decisions

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

Litigation

Fiscal year 2012-2013 continued the recent trend of substantial annual increases in court litigation¹ for PERB. Specifically, 146 litigation-related assignments were completed by PERB attorneys (compared to approximately 139 last fiscal year, 93 the year before that, and 90 the year before that). A total of 26 litigation cases, including new and continuing matters, were handled during the 2012-2013 fiscal year (compared to 35 last fiscal year and 30 the year before). A summary of these cases is included in the Appendices, beginning at page 54.

Representation Activity

For fiscal year 2012-2013, 100 new representation petitions were filed, an increase of 26 cases when compared to the prior year. The fiscal year total includes 24 recognition petitions, 6 severance requests, 2 petitions for certification, 25 decertification petitions, 4 requests for amendment of certification, 35 unit modification petitions, and 4 fair share fee (agency shop) rescission petition.

Election activity increased, with 12 elections conducted compared to 7 in the prior year. The 12 elections conducted by PERB during the fiscal year included 8 decertification elections, 1 representation election, 2 organizational security elections and 1 amendment of certification election. More than 1,575 employees were eligible to participate in these elections, in bargaining units ranging in size from 13 to 403.

Mediation/Factfinding/Arbitration

During the 2012-2013 fiscal year, PERB received 134 mediation/factfinding requests under EERA/HEERA, and 81 factfinding requests under the MMBA. Of those matters, 96 were subsequently approved for factfinding. Of the opened factfinding requests, 34 were filed under EERA or HEERA, and 62 were filed under the MMBA. The number of mediation requests under EERA/HEERA decreased slightly over the prior year (149 such requests were filed in 2011-2012), but the number of factfinding requests under the MMBA increased substantially over the prior year (21 such requests were filed in 2011-2012).

¹ 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 in the State, including the California Supreme Court. Litigation consists of preparing legal memoranda, court motions, points and authorities, briefs, stipulations, judgments, orders, etc., as well as making court appearances.

State Mediation and Conciliation Service Division

SMCS moved to PERB from the Department of Industrial Relations with the beginning of FY 2012-2013. The process of upgrading case management tools began mid-year, and should be fully in place before the end of the 2013-2014 fiscal year. The upgrades will allow for refinement in tracking case dispositions electronically, which is not possible with the tool currently in use.

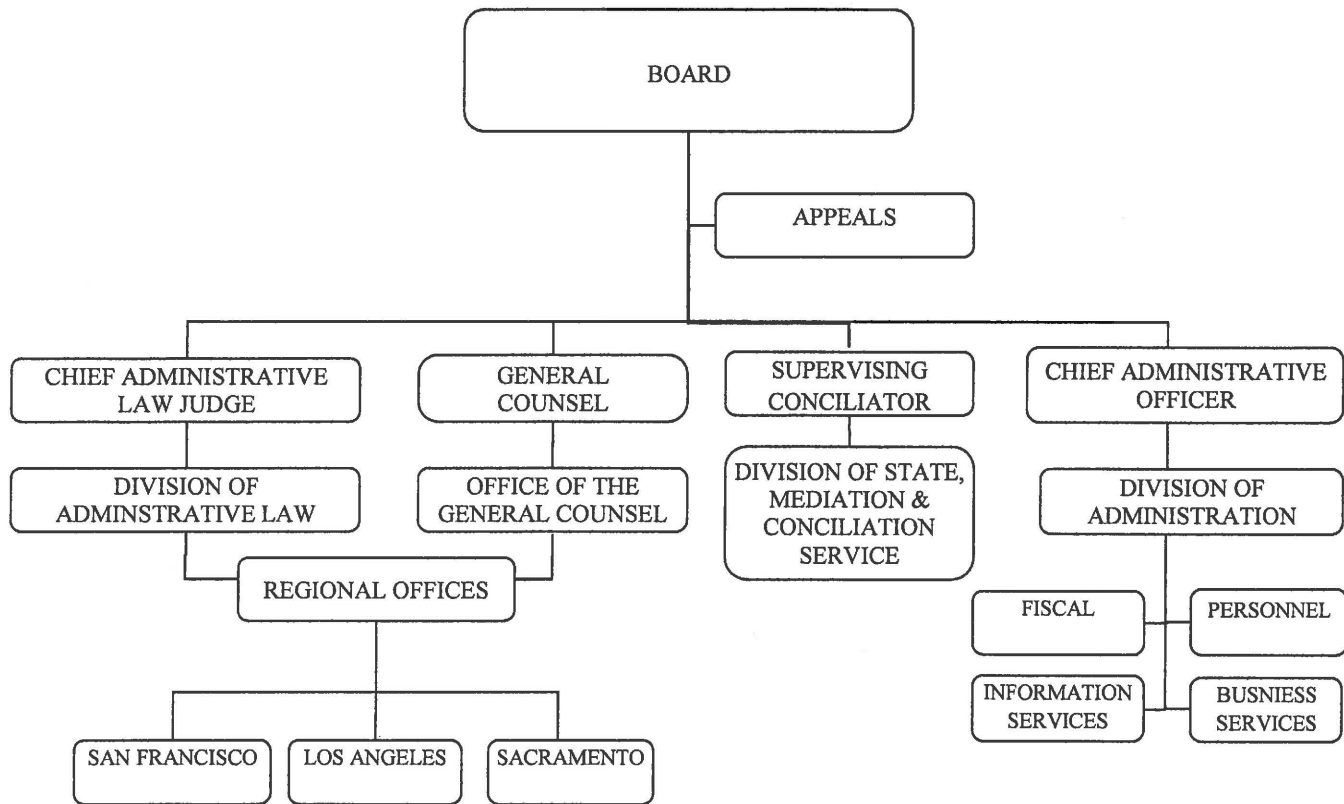
SMCS received a total of 1,033 new cases between July 1, 2012, and June 30, 2013. EERA/HEERA contract impasses accounted for 118 of the 220 total contract impasses mediated during the year. The balance of the cases included: 658 grievances, including disciplinary appeals, 69 training/facilitation/workplace conflict cases (staffing levels required the suspension of most of this type of work beginning March 1, 2013), 49 elections (some of which were not fully performed due to challenges) and card checks, mediation in 4 unit disputes, 11 assignments for outreach/education, and 22 miscellaneous cases related to collateral duties or issues that could not be categorized within the established categories.

Compliance

PERB staff commenced compliance proceedings regarding 32 unfair practice cases, in which a final decision resulted in a finding of a violation of the applicable statute. This is another substantial increase in activity over the prior year (19 compliance proceedings were initiated in 2011-2012).

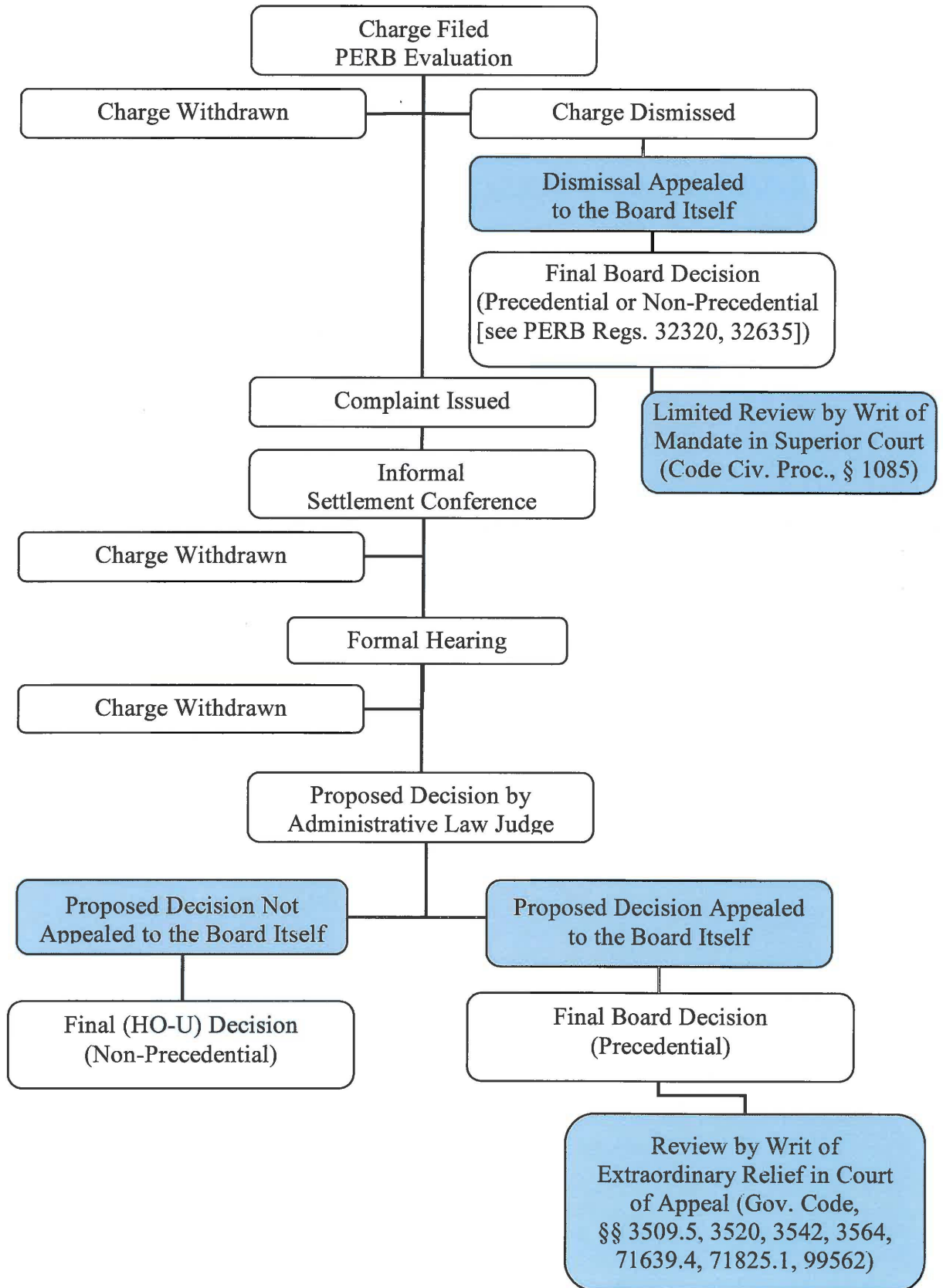
V. APPENDICES

PUBLIC EMPLOYMENT RELATIONS BOARD Organizational Chart



(Adopted by the Board at its October 10, 2013 Public Meeting)

UNFAIR PRACTICE CHARGE FLOW CHART



2012-2013 UNFAIR PRACTICE CHARGE STATISTICS

I. Unfair Practice Charges Filed by Region

Region	Total
Sacramento	148
San Francisco	239
Los Angeles	291
Total	678

II. Unfair Practice Charges Filed by Act

Act	Total
Dills Act	43
EERA	271
HEERA	81
MMBA	265
TEERA	1
Trial Court Act	7
Court Interpreter Act	1
Non-Jurisdictional	9
Total	678

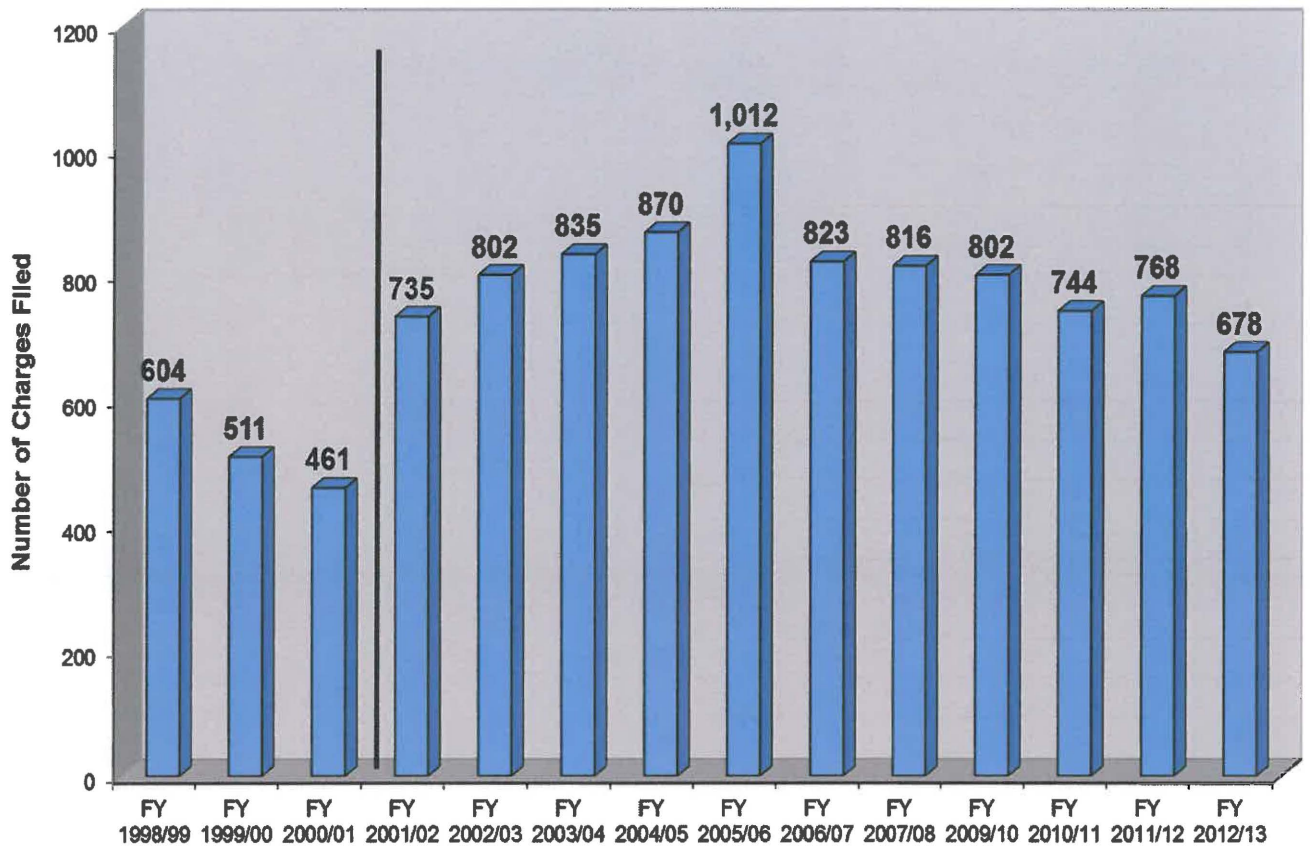
III. Prior Year Workload Comparison: Charges Filed

	2009/2010	2010/2011	2011/2012	2012/2013	4-Year Average
Total	802	744	768	678	748

IV. Unfair Practice Charge Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	38	23	78	139
San Francisco	52	77	107	236
Los Angeles	92	79	136	307
Total	182	179	321	682

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 (1126) 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.)

2012-2013 REQUESTS FOR INJUNCTIVE RELIEF (I.R.)

I. Prior Year Workload Comparison: I.R. Requests Filed

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	6-Year Average
Total	28	19	13	16	21	17	19

2012-2013 REPRESENTATION CASE ACTIVITY

I. Case Filings and Disposition Summary

Case Type	Filed	Closed
Request for Recognition	24	21
Severance	6	8
Petition for Certification	2	5
Decertification	25	20
Amended Certification	4	4
Unit Modification	35	32
Organizational Security	4	3
Arbitration	0	0
Mediation/Factfinding Requests (EERA/HEERA)	134	133
Factfinding Requests (MMBA)	81	73
Compliance	32	30
Totals	347	329

II. Prior Year Workload Comparison: Cases Filed

	2009-2010	2010-2011	2011-2012	2012-2013	4-Year Average
Fiscal Year	323	230	294	347	299

III. Elections Conducted

Amendment of Certification	1
Decertification	8
Fair Share Fee Reinstatement	0
Fair Share Fee/Agency Fee Rescission	2
Representation	1
Severance	0
Unit Modification	0
Total	12

Elections Conducted: 7/1/2012 to 6/30/2013

<i>Case No.</i>	<i>Employer</i>	<i>Unit Type</i>	<i>Winner</i>	<i>Unit Size</i>
<i>Amendment of Certification</i>		<i>1</i>		
LA-AC-00071-M	CITY OF LOMPOC	Technical, Service & Maintenance	IBEW Local Union 1245	129
<i>Decertification</i>		<i>8</i>		
LA-DP-00381-M	CITY OF WEST COVINA	General	West Covina General Employees Bargain	40
LA-DP-00386-E	COMPTON UNIFIED SCHOOL DISTRICT	Operations, Support Services	California Federation of Public Service E	320
LA-DP-00387-E	COMPTON UNIFIED SCHOOL DISTRICT	Office Technical/Business Service	California Federation of Public Service E	240
LA-DP-00388-E	COMPTON UNIFIED SCHOOL DISTRICT	Security	California Federation of Public Service E	60
LA-DP-00389-E	EXCELSIOR PUBLIC CHARTER SCHOOL	Wall Certificated	No Representation	60
LA-DP-00393-E	TORRANCE USD	Operations, Support Services	SEIU Local 99	275
LA-DP-00392-M	NORTH KERN WATER STORAGE DIST.	Operations, Support Services	Teamsters Local 87	15
SF-DP-00305-E	SOLANO COE	Transportation	P.E.U. Local #1	13
<i>Organizational Security - Rescission</i>		<i>2</i>		
SF-OS-001 98-M	GOLDEN GATE BRIDGE HWY & TRANS DIST	Engineering	Organization Security Not Rescinded	18
SA-OS-00146-E	SPRINGVILLE UnESD	Wall Certificated	Fair Share Rescinded	15
<i>Representation</i>				
SF-RR-00945-E	BRENTWOOD UNION SCHOOL DISTRICT	Wall Certificated	Brentwood Teachers Association	403

Total Elections:

2012-2013 DECISIONS OF THE BOARD

*Judicial review of Board decision pending.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2249a-M	National Union of Healthcare Workers v. SEIU-United Healthcare Workers West	A request for reconsideration of <i>National Union of Healthcare Workers</i> (2012) PERB Decision No. 2249-M which reversed a Board agent's dismissal of a charge that SEIU-United Healthcare Workers West (SEIU) interfered with balloting by bargaining unit members.	Request denied. SEIU offered no new evidence and the Board's decision was free of prejudicial error.
2267a-M	Melvin Jones Jr. v. County of Santa Clara	Charging party filed a request for reconsideration of <i>County of Santa Clara</i> (2012) PERB Decision No. 2267-M.	The Board denied the request for reconsideration based upon the failure to satisfy the requirements for reconsideration under PERB Regulation 32410(a).
2267b-M	Melvin Jones Jr. v. County of Santa Clara	Charging party filed a second request for reconsideration of <i>County of Santa Clara</i> (2012) PERB Decision No. 2267-M.	The Board denied the request as untimely and for failure to satisfy the requirements for reconsideration under PERB Regulation 32410(a).
2278	Gwendolyn Diane Nelson Trotter v. San Bernardino City Unified School District	The charge alleged that the San Bernardino City Unified School District violated EERA by failing to reclassify and pay a teacher according to the certificated salary schedule.	The Board affirmed the dismissal of the charge for failure to state a prima facie violation of EERA.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2279-M	Ronald S. Quinn v. County of Santa Barbara	The charge alleged that the County of Santa Barbara retaliated against charging party for having engaged in protected activities by changing his job duties and subjecting him to increased scrutiny.	The Board reversed the dismissal of the charge and directed issuance of a complaint on the allegations contained in the original charge. The Board affirmed the dismissal of alleged retaliatory acts added by the first amended charge as untimely.
2280-M	Service Employees International Union, Local 721 v. County of Riverside	ALJ ruled that the County of Riverside (County) violated its own local rule in denying a unit modification petition. The ALJ determined that the County's local rule did not require proof of majority support and it applied its rule unreasonably and in violation of the MMBA by requiring such proof.	Proposed decision affirmed. County acted inconsistently with its own local rule regarding unit modification and thereby violated the MMBA.
2281-M	Ragni Larsen-Orta v. City of Berkeley	The charge alleged that the City of Berkeley terminated the charging party's employment in retaliation for having engaged in protected activity.	The Board affirmed the dismissal of the charge for failure to state a prima facie case of retaliation.
2282-S	Service Employees International Union, Local 1000 v. State of California (Department of Corrections & Rehabilitation)	ALJ ruled that State of California (Department of Corrections & Rehabilitation) (CDCR) violated the Dills Act when it retaliated against a union job steward by disciplining an employee for her conduct engaged in while representing bargaining unit members.	ALJ decision affirmed. The Board held that job steward's speech and actions did not exceed the bounds of statutory protection and CDCR was motivated to discipline job steward because of her protected representational activity.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2283	Pamela Jean Lukkarila v. Jurupa Unified School District	Appeal from Board agent dismissal of unfair practice charge alleging that the Jurupa Unified School District (District) violated EERA: (1) when it retaliated against charging party after seeking union assistance, when it discriminated against her because of her age, gender, pregnancy and education; (2) by dominating or interfering with the administration of an employee organization; and (3) by violating charging party's right to fair representation.	<p>Dismissal affirmed in part, reversed in part. Remanded for issuance of complaint. Board affirmed: (1) that charging party, as an individual employee, lacked standing to charge District with domination or interference with the administration of an employee organization; (2) that an allegation that the duty of fair representation has been violated is not properly brought in a charge against the District; and (3) to the extent charging party's allegations contained discrimination claims based on external laws other than EERA, they were properly dismissed.</p> <p>The Board reversed the Board agent's determination and concluded: (1) that charging party's retaliation allegations were timely; (2) that charging party's individual enforcement of provisions in the collective bargaining agreement was protected activity; (3) that the District's directive that charging party—a permanent certificated employee subject to biannual evaluation—submit to a consecutive annual evaluation was adverse. The Board also concluded that a negative report regarding charging party's teaching and warning letter from charging party's supervisor were adverse actions; (4) that charging</p>

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			<p>party alleged sufficient nexus between her protected activity and the District's adverse actions against her; and (5) that charging party alleged a prima facie charge of District interference with charging party's rights under EERA.</p> <p>Dissent stated that consecutive year evaluation of permanent employee not precluded by the Education Code or the parties' agreement.</p>
2284-M	Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. City of Lincoln	The charge alleged that the City of Lincoln violated the MMBA by failing to consider, conduct a vote, or take any other action related to a tentative agreement entered into between the city's negotiator and the union and ratified by the union's membership, thereby violating its duty to meet and confer in good faith.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the MMBA.
2285-S	Service Employees International Union, Local 1000 v. State of California (Department of Corrections & Rehabilitation)	The complaint and underlying charge alleged that the State of California (Department of Corrections & Rehabilitation) interfered with employee rights when it threatened and ordered a job steward to cease and desist a union investigation into alleged misconduct by a supervisor for a potential grievance.	The Board reversed the ALJ, finding that the State interfered with employee rights by its conduct and ordered the State to cease and desist from interfering with protected employee rights.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2286-S	Kelly McGuire v. AFSCME Local 2620	The charge alleged that AFSCME Local 2620 breached its duty of fair representation based upon inadequate representation at a <i>Skelly</i> hearing and State Personnel Board settlement conference.	The Board upheld the dismissal of the charge for failure to state a prima facie case of breach of the duty of fair representation.
2287-H	California Faculty Association v. Trustees of the California State University	The charge alleged that the Trustees of the California State University unlawfully implemented an executive order governing student mental health services without first bargaining over potential effects on workload.	The Board reversed the dismissal of the charge and directed issuance of a complaint.
2288-M	United Professional Firefighters, Local 1230 v. City of Pinole	The charge alleged that the city (1) failed to meet and confer in good faith by failing to provide information about the value of concessions it sought during bargaining; (2) engaged in surface bargaining over its pension proposals; (3) unilaterally changed terms and conditions of employment by prohibiting on-duty firefighters from attending City Council meetings; and (4) insisted to impasse on pension proposals that were non-mandatory subjects of bargaining amounting a waiver of statutory rights.	The Board upheld the partial dismissal of the first three issues but found that the charge stated a prima facie case as to the fourth issue and remanded the charge for issuance of a complaint on that issue.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2289	Mary Stever v. Palos Verdes Faculty Association	The charge alleged that the union breached its duty of fair representation based upon the handling of grievances and mediation.	The Board upheld the dismissal of the charge for failure to state a prima facie case of breach of the duty of fair representation.
2290	Inglewood Unified School District v. Inglewood Teachers Association	The charge alleged that the Inglewood Teachers Association violated its duty to bargain under EERA by refusing to engage in reopener negotiations.	The Board affirmed the dismissal of the charge for failure to state a prima facie violation of the duty to bargain.
2291-M	SEIU United Healthcare Workers West v. El Camino Hospital District	The charge and complaint alleged that El Camino Hospital District approved a petition for decertification in which the proof of employee support did not clearly state that employees no longer wished to be represented by SEIU United Healthcare Workers West; refused to allow a disinterested third party to confirm whether the proof of employee support was consistent with the requirements of the local rules; and declared that the three bargaining units represented by SEIU, UHW West had been merged together for the purpose of resolving representation issues.	The Board granted charging party's request to withdraw the charge pursuant to the parties' global settlement.
2292-M	Melvin Jones Jr. v. County of Santa Clara	The charge alleged that the County of Santa Clara unilaterally changed a memorandum of understanding with charging party's representative.	The Board granted charging party's request to withdraw his appeal from dismissal of the charge.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2293-H	California State University Employees Union v. Trustees of the California State University (Sacramento)	Appeal from Board agent dismissal of unfair practice charge alleging that Trustees of the California State University (Sacramento) interfered with bargaining unit member's rights in violation of HEERA.	CSUEU withdrew appeal, Board granted request.
2294-M	Orange County Medical & Dental Association v. County of Orange	The charge alleged that the County of Orange unlawfully refused to process a unit modification petition.	The Board affirmed the dismissal of the charge for failure to establish a violation of local rules.
2295-M	Ragui H. Michael v. City & County of San Francisco (Department of Aging and Adult Services), San Francisco In-Home Supportive Service Public Authority, Joined Party	The charge alleged that the City and County of San Francisco (Department of Aging and Adult Services) and the San Francisco In-Home Supportive Service Public Authority violated the MMBA by improperly withholding agency fees.	The Board affirmed the dismissal of the charge due to the failure to name the proper party as respondent.
2296-M*	International Association of Machinists v. City of Long Beach	The charge alleged that the City of Long Beach violated the MMBA by unilaterally implementing a five-day furlough on represented employees without satisfying its obligation to meet and confer in good faith.	The Board upheld the ALJ's determination that the City violated the MMBA by unilaterally implementing furloughs without satisfying its obligation to meet and confer.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2297-M	Willard Park v. Inlandboatmans Union of the Pacific	The charge and complaint alleged that the union breached its duty of fair representation in handling a grievance.	The Board upheld the dismissal of the charge and complaint for failure to establish that the union's conduct was without a rational basis or devoid of honest judgment.
2298-M	National Union of Healthcare Workers v. Salinas Valley Memorial Healthcare System	Appeal from Board agent dismissal of unfair practice charge alleging that Salinas Valley Memorial Healthcare System (Hospital) failed and refused to meet and confer in good faith over decision to lay off employees, implementation of layoff, impact and effects of layoff, and also failed to provide National Union of Healthcare Workers (NUHW) with requested information regarding layoff.	<p>Dismissal affirmed in part, reversed in part. Remanded for issuance of complaint. Board held: (1) Hospital had no duty to meet and confer over decision to layoff under either MMBA or parties' MOU; (2) Hospital had duty to meet and confer over implementation and impact of labor-cost driven layoff; (3) NUHW made prima facie case of refusal to meet and confer over implementation and effects of layoff and of improper implementation before fulfilling meet and confer obligation by Hospital; and (4) Hospital did not fail to provide NUHW with requested information.</p> <p>Dissent: agrees with dismissal and warning letters that NUHW failed to state prima facie case of refusal to meet and confer over implementation and effects of layoff and of improper implementation before fulfilling meet and confer obligation by Hospital and would not remand to the Office of the General Counsel for issuance of complaint.</p>

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2299	Pamela A. Mnyandu v. Los Angeles Unified School District	The charge alleged that the Los Angeles Unified School District unlawfully withheld wages from charging party.	The Board affirmed the dismissal of the charge based on lack of jurisdiction.
2300-H*	American Federation of State, County and Municipal Employees, Local 3299 v. Regents of the University of California	ALJ ruled: (1) that PERB lacked jurisdiction because of the "local concern" exception to the preemption doctrine over American Federation of State, County and Municipal Employees, Local 3299 (Union) allegations that the Regents of the University of California (University) unilaterally changed regulations regarding Union leafleting activities at University of California, Los Angeles (UCLA) and University of California, San Francisco (UCSF) medical centers; and (2) that University violated HEERA by denying access to Union agents to certain employee break rooms at University laboratory facilities.	Board reversed in part, affirmed in part. Board held: (1) that although constitutional issues may come into play, PERB does have jurisdiction over Union's unfair practice charge; (2) that Union failed to state a prima facie claim regarding unilateral change at UCLA, but did state prima facie claim regarding unilateral change at UCSF; and (3) affirmed ALJ's decision and remedy with regard to University's denial of Union access to employee break rooms.
2301-C	LaTrina Woods v. Los Angeles Superior Court	The charge alleged that the Los Angeles Superior Court violated the Trial Court Act by issuing an improper notice of suspension.	The Board upheld the dismissal of the charge for failure to provide proof of service on the respondent.
2302-H	Jeffrey Estes v. Regents of the University of California	The charge and complaint alleged that the university suspended and terminated charging party's employment in retaliation for having engaged in protected activities.	The Board affirmed the dismissal of the complaint and charge for failure to establish that the employer's true motivation was based upon charging party's protected activity.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2302a-H	Jeffrey Estes v. Regents of the University of California	The charging party requested reconsideration of decision dismissing the complaint alleging that the charging party was suspended and terminated for having engaged in protected activities.	The Board denied the request for reconsideration.
2303	Santa Monica College Faculty Association v. Santa Monica Community College District	The charge and complaint alleged that the district breached its duty to bargain in good faith when it refused to provide the association with a list of part-time faculty who did not have a retirement election form on file.	The Board upheld the finding that the district violated HEERA by refusing to provide information that was necessary and relevant to the association's representation of bargaining unit employees.
2304	Youlanda O. Williams v. California School Employees Association & its Chapter 500	The charge alleged that California School Employees Association & its Chapter 500 breached its duty of fair representation when it failed to look into or pursue grievances, delayed in pursuing grievances and failed to communicate with charging party.	The Board affirmed the dismissal of the charge for failure to state a prima facie case of breach of the duty of fair representation.
2305-S	Jennifer Xu v. State of California (Department of Mental Health, Department of Developmental Services)	The charge alleged that the State of California (Department of Mental Health, Department of Developmental Services) violated the Dills Act with respect to documents charging party filed with the State Auditor's Office and the Governor's Office.	The Board affirmed the dismissal of the charge based upon the charging party's failure to provide clear and concise statement of the conduct alleged to constitute an unfair practice.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2305a-S	Jennifer Xu v. State of California (Department of Mental Health, Department of Developmental Services)	The charging party requested reconsideration of decision affirming the dismissal of the charge alleging violations of the Dills Act.	The Board denied the request for reconsideration.
2306	Manuel Faustino Yvellez v. Chula Vista Elementary School District	The charge alleged that the Chula Vista Elementary School District violated EERA by hiring the president of the union to fill the position of Director of Human Resources.	The Board affirmed the dismissal of the charge for failure to state a prima facie case of unlawful domination or interference.
2307-M	Service Employees International Union, Local 721 v. County of Riverside	The charge alleged that the County of Riverside violated MMBA by unilaterally changing the policy regarding compensation paid to employees on approved union released time.	The Board reversed the dismissal of the charge and directed issuance of a complaint.
2308-M	Operating Engineers, Local 1 v. City of Santa Rosa	The charge alleged that the City violated its duty to bargain in good faith by demanding to meet and confer on a successor MOU two weeks after imposing its last, best and final offer.	The Board upheld the dismissal of the unfair practice complaint, holding that there was no "cooling off" period exempting the union from its duty to bargain after the employer legitimately imposed its last, best and final offer.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2309	Ermine Fredrica Nelson v. Jurupa Unified School District	ALJ ruled that the Jurupa Unified School District (District) retaliated against charging party for participating in protected activity by terminating her employment.	Board affirmed ALJ's proposed decision and remedy which ordered that the District rescind a letter informing charging party she had been terminated.
2310	South Coast Professional Employees Association v. South Coast Air Quality Management District	Appeal of a dismissal of an unfair practice charge filed by the South Coast Professional Employees Association alleging that South Coast Air Quality Management District violated the MMBA by bargaining in bad faith.	The association requested that the charge be withdrawn because it had resolved the dispute and executed a new memorandum of understanding with the district. The Board granted the request.
2311-M	Escondido City Employees Association v. City of Escondido	The charge alleged that the City of Escondido violated the MMBA by failing to meet and confer over the decision to transfer bargaining unit work.	The Board reversed the partial dismissal of the charge and directed issuance of a complaint.
2312-M	Council of Housing Professionals v. Housing Authority of the City of Los Angeles	The charge alleged that the employer discriminated against employees because of their protected activity when the employer involuntarily transferred all of the union's executive board members to less desirable work sites.	Upon request by the union, the Board dismissed the charge.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2313	California State Employees Association & its Chapter 477 v. Rio Hondo Community College District	ALJ ruled that the Rio Hondo Community College District (District) violated EERA by refusing to bargain with CSEA over the effects of a decision to install security cameras.	Board affirmed ALJ's proposed decision. Board also held: (1) that CSEA did not waive its right to bargain over effects of District's decision; (2) that requiring negotiation over the effects of security cameras on performance evaluations and potential discipline did not significantly abridge the exercise of managerial prerogative; (3) ALJ's failure to discuss security cameras "actual impact" on terms and conditions of employment, or how they create "new grounds" for discipline and "new procedures" for evaluation was not error because prima facie case only requires a foreseeable effect on discipline and evaluation; and (4) ALJ properly relied on NLRB authority in his proposed decision.
2314-H	Frederick C. King v. Regents of the University of California (UC Davis Medical Center)	The charge alleged that the Regents of the University of California violated HEERA by changing charging party's work schedule in retaliation for having engaged in protected activities.	The Board reversed the dismissal of the charge and directed issuance of a complaint.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2315-M	Teamsters Local 150 v. County of Sacramento	The charge alleged that the county unilaterally changed terms and conditions of employment when it removed from certain employees the benefit of taking their county-issued vehicles home at the end of the work day.	The Board upheld the dismissal of the charge, holding that in order to perfect a demand to bargain over the effects of a non-negotiable decision, the union must indicate that it seeks to bargain effects and identify the matters within the scope of bargaining foreseeably affected by the change. In this case, the union failed to demand to bargain over effects and failed to indicate any matter within the scope of bargaining that was foreseeably affected by the county's decision to end the home vehicle retention assignment for employees.
2316-M	Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. County of Yolo	The complaint and underlying charge, filed by the exclusive representative for the County of Yolo's (County) General Bargaining unit, alleged that the County violated its local rules in its handling of a petition for unit modification, decertification and recognition filed on behalf of peace officers in the County's Probation Department who desired to leave the General Bargaining Unit for a unit of their own.	The Board reversed the ALJ, finding that the County violated its local rules and ordered a make-whole remedy for peace officer employees who were harmed as a result of the County's action.

2012-2013 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2316a-M	Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. County of Yolo	The charging party requested reconsideration of the Board's decision for purposes of seeking a remedy that returned the peace officers to the General Bargaining unit.	The Board denied the request for reconsideration.
2317-S	CDF Firefighters v. State of California (Department of Forestry & Fire Protection, State Personnel Board)	The charge alleged that the State Personnel Board (SPB) violated the Dills Act by unilaterally changing disciplinary appeal procedures without meeting and conferring with the with the CDF Firefighters.	The Board upheld the dismissal of the charge because the SPB does not have a duty to meet and confer with the exclusive representatives of non-SPB employees. Since the CDF Firefighters represent employees of the California Department of Forestry and Fire Protection, the SPB has no duty to bargain with this union.

*Judicial review of Board decision pending.

2012-2013 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-396-H	Jeffrey Estes v. Regents of the University of California	The University appealed from an administrative determination rejecting as untimely its response to exceptions to an ALJ's proposed decision.	The Board granted the appeal and accepted accept the late-filed response based upon a showing of good cause.
Ad-397-H	Coalition of University Employees v. Regents of the University of California (Lawrence Berkeley National Laboratory)	The complaint and underlying charge included retaliation allegations brought by the charging party on behalf of two employees. After a formal hearing on the merits, the complaint was dismissed in a proposed decision to which neither party excepted. One of the two employees sought to file exceptions, and requested an extension of time from the Board. The Appeals Assistant denied the request due to lack of party status.	The Board affirmed the decision of the Appeals Assistant, concluding that only parties to a case may file exceptions to a proposed decision and joinder when a case is pending before the Board is not contemplated by PERB's regulations.
Ad-398-M	Melvin Jones Jr. v. County of Santa Clara	Appeal from administrative decision denying third request for reconsideration.	Board affirmed administrative determination and dismissed request for reconsideration.

2012-2013 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-399	City of Vallejo and Public Employees Union, Local One and International Brotherhood of Electrical Workers, Local 2376	Appeal of General Counsel's dismissal of a severance petition that sought to carve out a unit of Water Maintenance and Operations employees from existing unit.	The Board upheld the dismissal of the severance petition. In the absence of relevant local rules, PERB applied its regulations and concluded that the petition was not filed within the appropriate window period.

2012-2013 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.			

2012-2013 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
IR-56-H	Wenjiu Liu v. Trustees of the California State University (East Bay)	Request for injunctive relief was filed by an individual who alleged his dismissal from employment was done in retaliation for protected activity.	The Board denied the request, holding that injunctive relief in this case was not "just and proper." Charging party's alleged emotional pain and suffering and harm to reputation is not within PERB's jurisdiction to remedy. The economic losses alleged can be remedied at the conclusion of the administrative process. There was no showing that injunctive relief was necessary either to preserve PERB's remedial authority or to stop any chilling effect the employer's conduct might have on the rights of other employees or on organizing efforts.

2012-2013 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 622	Melvin Jones Jr. v. County of Santa Clara	Whether the county should be enjoined to restore Jones' health benefits to prevent irreparable harm he claimed to have suffered as a result of his discharge in 2009, allegedly in retaliation for filing grievances, which was the subject of <i>County of Santa Clara</i> (2012) PERB Decision No. 2267-M.	Request denied.
I.R. 623	Kourosh (Ken) Hamidi v. SEIU Local 1000	Whether an arbitration hearing between SEIU and fair share fee objectors regarding fair share fee payment should be enjoined until two weeks after SEIU provides financial records to the objectors and whether SEIU should be enjoined from deducting no more than 50% of fair share fees from the objectors until after the arbitration is held and a proper chargeable expenditure rate is awarded—based upon a complaint that the Union: (1) arbitrarily changed the chargeable expenditure rate identified in its annual "Notice to Fee Payers" without proper notification; and (2) refused to provide detailed financial information requested by Hamidi.	Request denied.
I.R. 624	IBEW Local 465 v. Imperial Irrigation District	Whether a decertification election should be enjoined based on allegations that the district violated the MMBA by encouraging its employees in the rank-and-file unit to support a rival employee organization.	Request denied, with the election stayed and the administrative proceedings expedited.
I.R. 625	Melvin Jones Jr. v. County of Santa Clara	This was a renewal of the request in I.R. 622, with the same issue presented.	Request denied.

2012-2013 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 626	Wenjiu Liu v. Trustees of the California State University (East Bay)	Whether CSU should be enjoined to continue Liu's employment and reverse its decision to deny him tenure as a professor based on allegations that CSU had violated HEERA by retaliating against him for filing grievances relating to a disciplinary suspension, denial of tenure, and termination of his employment—some of which were pending in the university's grievance and arbitration process.	Request denied.
I.R. 627	International Association of Machinists & Aerospace Workers, Local Lodge 1930, District 947 v. City of Long Beach	Whether the city should be enjoined to reverse the reclassifications of eight public health nurses based on allegations that the city violated the MMBA by unilaterally reclassifying employees and reducing their hours and benefits without first meeting and conferring with the IAMAW over both the decision to do so and the effects of that decision.	Request denied.
I.R. 628	Lori E. Edwards v. Lake Elsinore Teachers Association	Whether the association should be enjoined to remove an incumbent director on the Association's executive board and require the association to hold an election to fill the vacancy, based on allegations that the association violated EERA by failing to follow its bylaws.	Request denied.

2012-2013 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 629	Wenjiu Liu v. Trustees of the California State University (East Bay)	This was a renewal of the request in I.R. 626, with the same issue presented.	Request denied.
I.R. 630	Wenjiu Liu v. Trustees of the California State University (East Bay)	This was a renewal of the request in I.R. 626, with the same issue presented.	Request denied.
I.R. 631	County of Sonoma v. Service Employees International Union Local 1021	Whether a one-day, pre-impasse unfair practice strike, which was noticed more than a month in advance, should be enjoined based on allegations that SEIU violated the MMBA by initiating a strike or other work stoppage by certain essential employees.	Request withdrawn.
I.R. 632	Saham Siavash v. State of California (Department of Transportation)	Whether CalTrans should be enjoined to award back pay to Siavash to prevent economic hardship, emotional distress, and harm to his familial relationships based on allegations that Caltrans violated the Dills Act when it retaliated against him by placing him on involuntary medical leave.	Request denied.

2012-2013 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 633	Service Employees International Union Local 1021 v. City of Fremont	Whether the city should be enjoined from withdrawing recognition and refusing to bargain with SEIU following a “disaffiliation” election conducted by an individual city employee, and based on allegations that the city violated the MMBA 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 SEIU as the exclusive representative of the bargaining unit, refusing to bargain with SEIU, and unlawfully withholding agency fee/member dues funds payable to SEIU; and (5) violating its duty of neutrality by expressing its support for one of the now two competing employee organizations.	Request granted.
I.R. 634	Wenjiu Liu v. Trustees of the California State University (East Bay) — PERB Order No. IR-56-H	This was a renewal of the request in I.R. 626, with the same issue presented.	Request denied.
I.R. 635	Regents of the University of California v. AFSCME Local 3299	Whether AFSCME should be enjoined from calling a two-day strike in the Patient Care technical (EX) bargaining unit at the five UC Medical Centers after serving ten-day strike notices on UC, based on allegations that AFSCME violated the HEERA by initiating a strike or other work stoppage by certain essential employees.	Request granted, in part.

2012-2013 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 636	Regents of the University of California v. UPTE Local 9119	Whether UPTE should be enjoined from calling a one-day sympathy strike in the Health Care Professionals (HX) unit at the five UC Medical Centers after serving ten-day strike notices on UC, based on allegations that AFSCME violated the HEERA by initiating a strike or other work stoppage by certain essential employees.	Request granted, in part.
I.R. 637	Regents of the University of California v. AFSCME Local 3299	Whether AFSCME should be enjoined from calling a two-day sympathy strike in the Service (SX) unit at the five UC Medical Centers after serving ten-day strike notices on UC, based on allegations that AFSCME violated the HEERA by initiating a strike or other work stoppage by certain essential employees.	Request denied.
I.R. 638	Ramona Teachers Association v. Ramona Unified School District	Whether the district should be enjoined from imposing a last, best, and final offer based on allegations that the district violated the EERA by engaging in bad-faith bargaining.	Request withdrawn.

2012-2013 LITIGATION CASE ACTIVITY

1. *Woods v. PERB; State of Calif. (Department of Corrections and Rehabilitation)*, California Supreme Court, Case No. S205697; California Court of Appeal, Third Appellate District, Case No. C067447 (PERB Case No. SA-CE-1640-S). Issue: Did PERB err in Decision No. 2136-S (dismissing Woods' charge alleging unlawful discrimination based on her rejection during probation)? A petition for review was filed on October 1, 2012. On November 15, 2012, the petition was denied. The case is now complete.
2. *Woods v. PERB; State of Calif. (Department of Corrections and Rehabilitation)*, United States Supreme Court Docket No. 12-8766 (PERB Case No. SA-CE-1640-S). Issue: Did PERB Decision No. 2136-S (dismissing Woods's charge alleging unlawful discrimination based on her rejection during probation) result in a violation of Woods's federal constitutional rights? A petition for writ of certiorari was filed on February 12, 2013. On March 4, 2013, PERB and CalHR filed a "waiver" form. The petition was denied on April 22, 2013. On or about May 17, 2013, Woods filed a petition for rehearing, which was denied by the United States Supreme Court on June 17, 2013. Although not officially listed on the Court's docket, it appears that the Supreme Court also rejected Woods's second petition for rehearing filed on or about July 17, 2013. The case is now complete.
3. *County of Los Angeles v. Los Angeles County ERC; SEIU Local 721 (SEIU 721)*, California Supreme Court, Case No. S191944, California Court of Appeal, Second Appellate District, Division Three, Case No. B217668. The California Supreme Court granted review of the decision in *County of Los Angeles v. Los Angeles County Employee Relations Commission* (2011) 192 Cal.App.4th 1409, in which the court rejected SEIU 721's argument that, consistent with longstanding PERB case law, it was entitled to the home addresses of non-member employees to fulfill its representation duties. The issues before the California Supreme Court are whether: (1) under the state Constitution (Cal. Const., art. I, § 1), the interests of non-union-member public employees in the privacy of their personal contact information outweigh the interests of the union representing their bargaining unit in obtaining that information in furtherance of its duties as a matter of labor law to provide fair and equal representation of union-member and non-union-member employees within the bargaining unit; and (2) the Court of Appeal erred in remanding to the trial court with directions to apply a specific notice procedure to protect such employees' privacy rights instead of permitting the parties to determine the proper procedure for doing so. On January 13, 2012, PERB filed an amicus brief discussing relevant case law. The case was fully briefed by both parties and amici as of February 15, 2012. The Supreme Court heard oral argument on March 5, 2013. On May 30, 2013, the Supreme Court issued a unanimous decision, affirming the union's rights of access to employee contact information, which generally outweighed employee privacy interests. The Supreme Court reversed the decision of the Court of Appeal, and held that the Court of Appeal exceeded its authority in the

administrative mandate proceeding by attempting to impose specific procedures on the parties. The remittitur issued on July 11, 2013. The case is now complete.

4. *Baprawski v. PERB; Los Angeles Community College District*, California Court of Appeal, Second Appellate District, Division One, Case No. B237839 (PERB Case No. LA-CE-5423-E). Issue: Did PERB err in Decision No. 2219 (affirming a proposed decision in which the ALJ dismissed a charge and complaint alleging that the LACCD violated EERA by relocating the office in which Ms. Baprawski worked as a counselor in 2009, in retaliation for filing a grievance and two PERB charges in 2004-2006)? A petition for writ of extraordinary relief (Gov. Code, § 3542, subd. (b)) was filed on December 14, 2011. Briefing was completed on September 24, 2012. The petition was denied on October 4, 2012. The case is now complete.
5. *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. The case is pending.
6. *PERB v. City of San Diego; San Diego Municipal Employees Association (MEA)*, San Diego Superior Court, Case No. 37-2012-00092205, IR Request No. 615 (PERB Case No. LA-CE-746-M). Issue: Whether the City should be enjoined from proceeding with an election on a local ballot measure entitled "Comprehensive Pension Reform (CPRI)," which was allegedly authored, funded, and promoted by City agents, including Mayor Jerry Sanders and two City Council Members, to amend City Charter provisions relating to employee pensions, based on a finding of reasonable cause to believe the City violated the MMBA by refusing to bargain with the MEA before proposing and approving the CPRI, and placing it on the ballot for the June 5, 2012 primary election? PERB filed a complaint and verified petition for writ of mandate in San Diego Superior Court on February 14, 2012, and an ex parte application for a temporary restraining order (TRO) and order to show cause (OSC) re preliminary injunction the following day. After a hearing on February 21, 2012, the trial court denied PERB's request for a TRO and OSC, without prejudice to refiling a motion for preliminary injunction after the election. Also on February 21, 2012, the City filed a cross-complaint, seeking to enjoin PERB's administrative proceedings, and a demurrer to PERB's complaint. On March 27, 2012, a newly assigned trial court judge granted the City's renewed ex parte application for an immediate stay of the PERB administrative proceedings as to PERB Case No. LA-CE-746-M. On April 11, 2012, the San Diego MEA filed a petition for writ of mandate in the California Court of Appeal for the Fourth Appellate District, Division One, seeking immediate relief from the stay of PERB's administrative proceedings, which was granted on June 19, 2012. (See separate entry below.) At a hearing on September 14, 2012, the court overruled the City's demurrer to PERB's complaint and took under submission PERB's special

motion to strike pursuant to Code of Civil Procedure, section 425.16 and motion for judgment on the pleadings as to the cross-complaint. On October 19, 2012, the court confirmed its tentative rulings as to the City's demurrer, and PERB's motions as to the cross-complaint. Although the court also granted PERB leave to seek attorney fees against the City, PERB decided to dismiss this entire action against the City of San Diego, without prejudice, on October 22, 2012. The case is now complete.

7. *Boling v. PERB & City of San Diego; San Diego Municipal Employees Association*, San Diego Superior Court, Case No. 37-2012-00093347 (PERB Case No. LA-CE-746-M). Issue: Whether the PERB administrative proceedings as to UPC No. LA-CE-746-M should be enjoined, because by initiating *PERB v. City of San Diego*, San Diego Superior Court Case No. 37-2012-00092205 (Case No. 92205), the Board misused public funds to "campaign" against the CPRI, and the *Boling* plaintiffs, who claim to be the true "citizen proponents" of the Initiative, were unable to intervene immediately in Case No. 92205 to defend their initiative? The *Boling* complaint was filed in San Diego Superior Court on March 5, 2012, against PERB and the City. On March 14, 2012, the *Boling* plaintiffs and the City filed an ex parte application for an immediate stay of the PERB administrative proceedings, which was denied after a hearing on March 15, 2012. The case was thereafter related to Case No. 92205 and transferred to the trial judge assigned to that case. On May 2, 2012, PERB filed a special motion to strike the *Boling* complaint pursuant to Code of Civil Procedure, section 425.16, which was heard along with a motion for judgment on the pleadings on September 14, 2012. PERB's anti-SLAPP motion and motion for judgment on the pleadings were heard on September 14, 2012, along with other motions in Case No. 92205. The court issued a tentative ruling to grant PERB's motion for judgment on the pleadings. However, at the end of the hearing, he took all of the motions under submission. A further hearing was scheduled for November 16, 2012, at which time the *Boling* group planned to seek to consolidate Case Nos. 92205 and 93347 or to intervene in Case No. 92205. PERB's opposition to this motion was due on November 2, 2012. However, on October 29, 2012, the court confirmed its tentative ruling on PERB's motions, and entered judgment in favor of the Board and individual Board members accordingly. On November 1, 2012, the court gave PERB leave to file an attorney fees motion. On December 5, 2012, PERB served and filed a Notice of Entry of Judgment and subsequently dropped its fee motion. The case is now complete.
8. *San Diego Municipal Employees Association (MEA) v. Superior Court; PERB & City of San Diego*, California Court of Appeal, Fourth Appellate District, Division One, Case No. D061724; San Diego Superior Court Case No. 37-2012-00092205 (PERB Case No. LA-CE-746-M). Issue: Whether a writ of mandate should issue, directing the San Diego Superior Court to vacate an order of March 27, 2012, in Case No. 92205, by which it granted the City's ex parte application for an indefinite stay of the PERB administrative proceedings as to PERB Case No. LA-CE-746-M? On April 11, 2012, MEA filed a petition for writ of mandate in Court of Appeal Case No. D061724, seeking immediate relief from the stay, and a writ of mandate directing the San Diego Superior Court to vacate its stay order. On May 3, 2012, the Court of Appeal issued an Order to Show Cause (OSC) why the relief requested by MEA should not be granted,

and subsequently ordered oral argument to be heard on June 13, 2012. On June 19, 2012, the Court of Appeal issued a published decision granting MEA's petition. (*San Diego Municipal Employees Assn. v. Superior Court* (2012) 206 Cal.App.4th 1447.) On July 3, 2012, the Court of Appeal denied the City's petition for rehearing. The case is now complete.

9. *City of San Diego v. PERB; San Diego Municipal Employees Association et al.*, California Court of Appeal, Fourth Appellate District, Division One, Case No. D062090; original proceeding related to San Diego Superior Court Case No. 37-2012-00092205 (PERB Case Nos. LA-CE-746-M). Issue: Whether a writ of mandate should issue, directing PERB to cease and desist from conducting any further administrative proceedings as to PERB Case No. LA-CE-746-M, and three other virtually identical charges (PERB Case No. LA-CE-752-M, filed by the San Diego Deputy City Attorneys Association; PERB Case No. LA-CE-755-M, filed by AFSCME Local 127; and PERB Case No. LA-CE-758-M, filed by the San Diego Firefighters Assn., IAFF Local 145), based on the City's claim that PERB has no jurisdiction to adjudicate the charge relating to a "citizens' initiative" such as the CPRI, which was approved by San Diego voters in the June 5, 2012 election? On June 8, 2012, the City filed this original writ petition, joining all of the unions with UPCs pending before PERB, as well as the plaintiffs in the *Boling* case, essentially seeking a permanent injunction against any further administrative action on the pending UPCs. On June 14, 2012, the day after it heard oral argument in its Case No. D061724, the Court of Appeal summarily denied the City's petition in Case No. D62090 without requesting opposition. On July 14, 2012, the California Supreme Court denied the City's petition for review of that summary denial order in its Case No. S203952. The case is now complete.
10. *San Diego Municipal Employees Association v. Superior Court of San Diego County; City of San Diego, et al.*, California Supreme Court Case No. S204306; California Court of Appeal for the Fourth Appellate District, Division One, Case No. D061724; UPC No. LA-CE-746-M (related to IR Request No. 615). Issue: Does PERB have exclusive initial jurisdiction of the underlying UPC, in which the MEA alleged that an initiative entitled "Comprehensive Pension Reform Initiative" (CPRI), while nominally a citizens' initiative, was in fact a City-sponsored measure crafted by City officials for the express purpose of "bypassing" the City's obligations under the MMBA to meet and confer over a proposal to amend the San Diego City Charter to exclude all future employees from an existing defined benefit pension plan and place them instead in a 401(k)-type defined contribution plan, and to freeze pensionable pay for the next five years? On July 27, 2012, real party in interest City of San Diego filed a petition for review of the decision of the Court of Appeal for the Fourth Appellate District, Division One, in its Case No. D061724, in which the Court granted a petition for writ of mandate filed by real party in interest San Diego MEA, seeking to vacate and reverse an order of the San Diego Superior Court staying PERB's administrative proceedings as to the underlying UPC. (See *San Diego Municipal Employees Assn. v. Super. Ct. (City of San Diego)* (2012) 206 Cal.App.4th 1447 [SDMEA].) PERB's answer to the petition for review was filed on August 20, 2012, and the City's reply was filed on August 24, 2012. The Supreme Court denied the City's petition for review on August 29, 2012.

The case is now complete, and the published decision of the Court of Appeal in *SDMEA, supra*, is now final and binding.

11. *City of San Diego v. PERB; San Diego Municipal Employees Association et al.*, California Supreme Court, Case No. S203478; California Court of Appeal for the Fourth Appellate District, Division One, Case No. D062090 (PERB Case No. LA-CE-746-M). Issue: Did the Court of Appeal err in its Case No. D062090 by summarily denying the City's original petition for writ of mandate? On June 22, 2012, the *Boling* plaintiffs filed a petition for review from the summary denial order entered by the Court of Appeal on June 14, 2012, along with a request for immediate stay of all related litigation matters and the PERB administrative hearing, which was then scheduled to begin on July 17, 2012. The Supreme Court ordered PERB and the RPI unions to file answers on an expedited basis, due by July 3, 2012, and ordered the petitioners to file their reply by July 10, 2012. On July 11, 2012, upon completion of briefing, the Supreme Court summarily denied both the petition for review and the stay request. The case is now complete.
12. *Doe v. Deasy*, Los Angeles Superior Court Case No. BS134604, related to *United Teachers Los Angeles (UTLA) & Associated Administrators of Los Angeles (AALA) v. Los Angeles Unified School District (LAUSD)*, PERB Case Nos. LA-CE-5546-E, LA-CE-5561-E & LA-CE-5568-E. Issues: Whether (1) the Stull Act (Educ. Code, § 44660, et seq.), requires LAUSD to consider student performance on standardized tests as part of its teacher evaluation process; and (2) whether the plaintiffs' claims are preempted by the EERA. A complaint and petition for writ of mandate were filed on November 1, 2011, by students, parents, and taxpayers who reside within the boundaries of the LAUSD (all but one of whom were named as "DOES"), naming LAUSD, UTLA, AALA, and PERB as defendants and respondents. Just prior to a November 21, 2011 trial setting conference, the plaintiffs amended their petition, deleting UTLA, AALA, and PERB as defendants and respondents. At the trial setting conference, the court ordered that UTLA and AALA be added back into the Amended Petition as "real parties in interest," and that PERB be allowed to intervene by stipulation of the parties. PERB filed a stipulation and complaint in intervention on April 4, 2012, and a brief in opposition to the petition on May 2, 2012. A hearing on the merits of the Amended Petition for Writ of Mandate was held on June 12, 2012. After that hearing, the trial court confirmed its tentative decision to grant the writ, in part, and directed the parties to meet and confer regarding an award of attorney fees. On June 28, 2012, as directed by the court, Petitioners served all parties with a proposed writ and judgment. On July 9, 2012, PERB served and filed objections to the proposed writ and judgment. At a hearing on July 24, 2012, the court considered the parties' objections and finalized the writ and judgment. Notice of entry of judgment was filed on or about July 27, 2012, starting the clock running for an appeal. The parties met and conferred about the plaintiffs' demand for over \$700,000 in attorney fees as the prevailing parties within the meaning of Code of Civil Procedure, section 1021.5, but did not settle the matter. The plaintiffs' motion for attorney fees was set for hearing on December 11, 2012. The plaintiffs filed their reply brief on December 5, 2012, essentially withdrawing their request for attorney fees against

PERB. In its tentative ruling, which was issued on December 10, 2012, and confirmed after the hearing on December 11, 2012, the trial court accepted Petitioners' concession that no attorney fees should be awarded against PERB. The matter is now complete.

13. *Grace v. PERB; Beaumont Teachers Association*, California Court of Appeal for the Fourth Appellate District, Division Two, Case No. E056338 (PERB Case Nos. LA-CO-1410-E & LA-CO-1411E). Issue: Did PERB err in Decision Nos. 2259 & 2260 (affirming a Board Agent dismissal of charges alleging violations of the union's duty of fair representation for failure to represent her in connection with her non-reelection from a probationary position as a certificated employee of the Beaumont Unified School District)? A petition for writ of review was filed in May 2012. On July 2, 2012, PERB filed a motion to dismiss the petition, which should have been filed, if at all, in superior court. The petition was denied on September 12, 2012. The case is now complete.
14. *Magner v. PERB, et al.*, Sacramento Superior Court, Case No. 07CS00173 (PERB Case No. SA-CE-1547-S). Issue: Did PERB err in Decision No. 1862-S (adopting a Board Agent's dismissal of Magner's charge alleging the State of California, Department of Forestry and Fire Protection, interfered with his rights under the Dills Act)? The case was filed in February 2007, and briefing concluded in March 2007. A request for dismissal was filed and entered on July 2, 2007. The case is now complete.
15. *Glendale City Employees Assn. v. PERB; City of Glendale*, Los Angeles Superior Court, Case No. BS137172; (PERB Case No. LA-CE-672-M). Issue: Whether a writ of mandate issue to direct the Board to vacate PERB Decision No. 2251 (affirming a Board Agent's dismissal of the CEA'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)? A petition for writ of mandate was filed in superior court in June 2012. On July 18, 2012, PERB filed a notice of appearance. On August 21, 2012, the superior court sustained the City's demurrer without leave to amend. The case is now complete.
16. *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 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)? On or about February 7, 2013, the GCEA filed a notice of appeal from the final order and judgment of the Los Angeles Superior Court. 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. GCEA filed its opening brief on August 29, 2013. The case is pending.

17. *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]). 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.
18. *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. The case is pending.
19. *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 the 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 is 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 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.
20. *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. A hearing on the merits of the County's writ petition and PERB's Anti-SLAPP motion is set for September 13, 2013. The matter is pending.
21. *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, which is set for hearing on October 10, 2013. A trial date of December 17, 2013 has also been set in this case. The matter is pending.

22. *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-119-M & LA-IM-120-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's motion for summary judgment is set to be heard on January 31, 2014. The matter is set for trial commencing on March 7, 2014. The matter is pending.
23. *PERB v. AFSCME Local 3299 & UPTE-CWA Local 9119 (University of California)* Sacramento Superior Court Case No. 34-2013-00143801; IR Request Nos. 635 & 636 (UPC Nos. SF-CO-186-H & SF-CO-187-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 TRO/OSC was heard on May 20, 2013, and granted in substantial part. A hearing on PERB's request for a 90-day preliminary injunction was scheduled for June 4, 2013, but continued on the court's own motion to Thursday, June 13, 2013. 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, and it became a final order of the court, which was entered on June 27, 2013.

24. *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 Temporary Restraining Order (TRO) and Order to Show Cause (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 30, 2013, the Superior Court denied PERB’s Ex Parte Application to extend the terms of the preliminary injunction. The case is pending.
25. *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’s appeal is pending.
26. *International Brotherhood of Electrical Workers, Local 18 v. City of Pasadena*, Los Angeles County Superior Court, Case No. BC487469 (PERB Case No. LA-CE-748-M). On or about January 31, 2012, the International Brotherhood of Electrical Workers, Local 18 (IBEW) filed with PERB a UPC against the City of Pasadena (City) alleging that the City violated the MMBA at sections 3505 and 3506 by unilaterally changing a policy of providing employees with paid lunch periods when they worked scheduled overtime and by retaliating against employees because IBEW filed and successfully pursued a grievance in their favor. On June 19, 2012, PERB’s Office of the General Counsel issued a complaint. On or about August 20, 2012, PERB Regional Attorney Ellen Wu executed a declaration regarding PERB’s exclusive initial

jurisdiction and UPC process that was subsequently filed by the City of Pasadena with the Los Angeles County Superior Court in connection with this court case. On August 12, 2013, the parties executed a Stipulation and Order re continuing temporary stay. The case is pending.