



# **PUBLIC EMPLOYMENT RELATIONS BOARD**

## **2016-2017 ANNUAL REPORT**

**October 15, 2017**



**EDMUND G. BROWN JR., GOVERNOR**

**STATE OF CALIFORNIA**

# **PUBLIC EMPLOYMENT RELATIONS BOARD**

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### **Board Members**

MARK C. GREGERSEN  
ERIC R. BANKS  
PRISCILLA S. WINSLOW

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**PUBLIC EMPLOYMENT RELATIONS BOARD**

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October 15, 2017

Dear Members of the State Legislature and fellow Californians:

On behalf of the Public Employment Relations Board (PERB), we are pleased to submit our 2016-2017 Annual Report. PERB is committed to conducting all agency activities with transparency and accountability. This Report describes PERB's statutory authority, jurisdiction, purpose and duties. The Report further describes case dispositions and other achievements for the Board's divisions, including results of litigation.

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

Statistical highlights during the 2016-2017 fiscal year include:

- 672 unfair practice charged filed
- 116 representations petitions filed
- 182 mediation requests filed pursuant to the Educational Employment Relations Act (EERA), Higher Education Employer-Employee Relations Act (HEERA), and Ralph C. Dills Act
- 32 EERA/HEERA factfinding requests approved
- 41 Meyers-Milias-Brown Act factfinding requests filed and approved
- 132 unfair practice charges withdrawn/settled prior to formal hearing
- 237 days of unfair practice informal settlement conferences conducted by regional attorneys
- 63 formal hearings completed by administrative law judges
- 71 proposed decisions issued by administrative law judges
- 530 cases filed with State Mediation and Conciliation Service
- 55 decisions issued and 29 injunctive relief requests decided by the Board

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We invite you to explore the Report for more detailed information about PERB's 2016-2017 activities and case dispositions. Also enclosed is a summary of all Board decisions describing the myriad issues the Board addressed in the last fiscal year.

We hope you find this Report informative. Please visit our website at [www.perb.ca.gov](http://www.perb.ca.gov) or contact PERB at (916) 323-8000 for any further information.

Respectfully submitted,

Mark C. Gregersen  
Chair

## **I. 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 seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates labor relations disputes between the parties. PERB administers the following statutes under its jurisdiction:

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

In addition, the Board administers the Public Employee Communications Chapter (PECC) (Government Code § 3555 et seq.)—a law designed to provide effective and meaningful ways for exclusive representatives to communicate with their bargaining unit members.

The history of PERB’s statutory authority and jurisdiction is included in the Appendices, beginning at page 17.

## **PERB's Purpose and Duties**

### **The Board**

By statute, 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 a term of up to five years, with the term of one Member expiring at the end of each calendar year. In addition to the overall responsibility for administering the eight statutory schemes, the Board acts as an appellate body to decide challenges to decisions issued by Board agents. Decisions of the Board itself may be appealed, under certain circumstances, to the State appellate and superior courts. The Board, through its actions and those of its agents, is empowered to:

- Conduct elections to determine whether employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- Remedy unfair practices, whether committed by employers or employee organizations;
- Investigate impasse requests that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- Ensure that the public receives accurate information and has the opportunity to register opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- Interpret and protect the rights and responsibilities of employers, employees, and employee organizations under the statutory schemes;
- Bring legal actions 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 statutory schemes it administers.

A summary of the Board's 2016-2017 decisions is included in the Appendices, beginning at page 31.

## **Major PERB Functions**

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

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

## **Other PERB Functions and Activities**

### **Information Requests**

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

### **Administrative Services**

The Division of Administration provides services to support PERB operations and its employees. This includes strategic policy development, administration, and communication with the State's control agencies to ensure operations are compliant with State and Federal requirements. A full range of services are provided for both annual planning/reporting cycles and ongoing operations in fiscal, human resources, technology, facility, procurement, audits, security, and business services areas.



## **II. LEGISLATION AND RULEMAKING**

### **Legislation**

In the 2016-2017 fiscal year, the Legislature enacted two bills impacting PERB.

On June 27, 2017, Governor Brown signed Assembly Bill 119 (AB 119) (Chapter 21, Statutes of 2017), which established the Public Employee Communication Chapter (PECC). The PECC mandates that public employers: provide exclusive representatives with access to its new employee orientations; provide the exclusive representative with ten (10) days advance notice of a new employee orientation; and negotiate with the exclusive representative over the structure, time and manner of access to the new employee orientation which may conclude in compulsory interest arbitration. Additionally, the law requires that public employers provide exclusive representatives with the public and personal contact information of its newly-hired employees and all employees at designated intervals of time. The PECC gave PERB jurisdiction over violations of the PECC.

On June 27, 2017, Governor Brown signed Senate Bill 90 (SB 90) (Chapter 25, Statutes of 2017), which repealed the In Home Supportive Services Employer-Employee Relations Act (IHSSEERA). In-Home Supportive Service providers formerly under IHSSEERA's jurisdiction returned to the Meyers-Milius-Brown Act. In addition, SB 90 created a revised mediation and factfinding procedure exclusively for IHSS bargaining units.

### **Rulemaking**

The Board did not consider any rulemaking proposals in the 2016-2017 fiscal year.

### **III. CASE DISPOSITIONS**

#### **Unfair Practice Charge Processing**

The number of unfair practice charges filed with PERB has remained high as a result of various statutory expansions to PERB's jurisdiction over the last two decades. In 2016-2017, 672 new charges were filed with PERB.

#### **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 2016-2017, 132 cases (about 32 percent of 661 completed charge investigations) were withdrawn, many through informal resolution by the parties. PERB staff also conducted 237 days of settlement conferences for cases in which a complaint was issued.

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

#### **Administrative Adjudication**

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

In fiscal year 2016-2017, the Division had eight ALJs conducting formal hearings and writing proposed decisions. The ALJs' production of proposed decisions issued in fiscal year 2016-2017 (71 proposed decisions) was down from fiscal year 2015-2016 (76 proposed decisions), and was up from fiscal year 2014-2015 (70 proposed decisions).

The number of formal hearings completed for fiscal year 2016-2017 (63 completed hearings) was substantially down from fiscal year 2015-2016 (87 completed hearings) which was the second highest in recent history. The Division's highest number of formal hearings completed was in fiscal year 2013-2014 (89 completed hearings). However, this decrease in the number of formal hearings completed caused a decrease in the number of pending proposed decisions to write. In fiscal year 2016-2017, the division ended with 34 pending proposed decision to write as compared to fiscal year 2015-2016, where the division ended with 44 pending proposed decisions to write.

The total number of cases assigned in fiscal year 2016-2017 was 161 cases while the ALJ's closed a total of 163 cases. Last fiscal year, 2015-2016, the total number of cases assigned was 183 cases while the ALJs closed a total of 182 cases. The decrease in hearing assignments was probably due to the increased burden of litigation and the number of attorney vacancies in the Office of General Counsel.

Over the last four fiscal years, the regional distribution of the caseload has been focused primarily in the PERB Glendale office, which comprised of approximately 50 percent of all PERB unfair practice formal hearings. However in fiscal year 2016-2017, the Oakland Office's hearing activity increased in its percentage overall from the prior immediate years to 37 percent while the Glendale Office's hearing activity dipped to 40 percent. This change is probably due to a decrease in overall hearing assignments coming out of the Glendale Office more than anything else.

### **Board Decisions**

Proposed decisions issued by Board agents may be appealed to the Board itself. During the 2016-2017 fiscal year, the Board issued 55 decisions as compared to 70 during the 2015-2016 fiscal year. The Board also considered 29 requests for injunctive relief as compared to 18 during the 2015-2016 fiscal year. A summary of injunctive relief requests filed compared to prior years is included in the Appendices at page 28.

### **Litigation**

PERB's litigation projects<sup>1</sup> decreased slightly in fiscal year 2016-2017. Specifically, PERB attorneys completed 103 litigation-related assignments (compared to 121 litigation projects last fiscal year). In addition, the number of active litigation cases remained near a record high in fiscal year 2016-2017. A total of 36 litigation cases, including new and continuing matters, were handled during the 2016-2017 fiscal year (compared to 37 last year, and 32 the year before). A summary of these cases is included in the Appendices, beginning at page 70.

### **Representation Activity**

For fiscal year 2016-2017, 116 new representation petitions were filed, which is the same number filed in the prior fiscal year. The fiscal year 2016-2017 total includes 40 recognition petitions, 5 severance requests, 23 decertification petitions, 8 requests for amendment of certification, and 44 unit modification petitions. In addition to the 237 days of informal conference in unfair practice charge cases, PERB attorneys held 13 days of informal conference and 4 days of formal hearing in representation matters.

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

Election activity decreased slightly, with 9 elections conducted in fiscal year 2016-2017, compared to 11 elections in the prior fiscal year. The 9 elections conducted by PERB were all decertification elections. More than 2,949 employees were eligible to participate in these elections, in bargaining units ranging in size from 17 to 1,856 employees.

### **Mediation/Factfinding/Arbitration**

During the 2016-2017 fiscal year, PERB received 182 mediation requests under EERA/HEERA/Dills. The number of mediation requests under EERA/HEERA increased from the prior year (129 such requests were filed in 2015-2016). Subsequently, 32 of those mediation cases were approved for factfinding.

During this same period of time, 41 factfinding requests were filed under the MMBA. Of those requests, 41 were approved. The number of factfinding requests under the MMBA decreased from the prior year (54 such requests were filed in 2015-2016).

### **Compliance**

PERB staff commenced compliance proceedings regarding 31 unfair practice cases, in which a final decision resulted in a finding of a violation of the applicable statute. This is a slight increase in activity over the prior year (27 compliance proceedings were initiated in 2015-2016).

### **State Mediation and Conciliation Service Division**

SMCS had two vacant mediator positions in fiscal year 2016-2017. Additionally, the dedicated office support position was also vacant for six months, requiring the diversion of available mediation hours. The fiscal year caseload was slightly lower than the prior fiscal year, most likely due to the continuing improvement in the economy.

SMCS received a total of 530 new cases between July 1, 2016 and June 30, 2017, and closed 662. The closed cases include:

#### Contract Impasses

- 103 EERA/HEERA
- 2 State of California
- 75 MMBA
- 3 Transit
- 4 State Trial Courts
- 1 Los Angeles City/County
- 1 IHSSEERA

### Grievances and Disciplinary Appeals

- 205 EERA/HEERA
- 1 State of California
- 97 MMBA
- 0 Transit
- 1 State Trial Courts
- 13 Los Angeles City/County
- 0 IHSSEERA
- 48 Private Sector (PUC, Other SMCS-specified)

### Other

- 55 representation and election cases
- 46 workplace conflict or training/facilitation assignments
- 7 miscellaneous cases related to education, outreach, and internal mediation or program administration projects.

SMCS also processed 477 requests for lists of arbitrators from its panel of independent arbitrators.



## **IV. APPENDICES**

## **Introduction of Board Members, Legal Advisors and Managers**

### **Board Members**

**Mark C. Gregersen** was appointed to the Board by Governor Edmund G. Brown on February 6, 2015 and was subsequently appointed Chair in March 2017. Mr. Gregersen's career in public sector labor relations spans over 35 years. Prior to his appointment, Mr. Gregersen was a principal consultant at Renne Sloan Holtzman Sakai LLP. He has also served as director of labor and work force strategy for the City of Sacramento and director of human resources for a number of California cities and counties. He has held similar positions for local government in the states of Nevada and Wisconsin. Mr. Gregersen has also served as an assistant county manager for the County of Washoe in Nevada.

Mr. Gregersen received a Bachelor's degree in business administration from the University of Wisconsin-Madison, and received a Master of Business Administration degree from the University of Wisconsin-Oshkosh.

His term expires December 2019.

**Eric R. Banks** was appointed to the Board by Governor Edmund G. Brown Jr. in February 2013, and reappointed in February 2015, and February 2017. 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 President, Advisor to the President, Chief of Staff, 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 December 2021.

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

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

Prior to her employment at CTA, Ms. Winslow maintained a private law practice in Oakland and San Jose representing individuals and public sector unions in employment and labor law matters. In addition to practicing law, Ms. Winslow taught constitutional law at New College of California, School of Law as an adjunct professor from 1984 to 1993.

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

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

**Anita I. Martinez** has been employed with PERB since 1976. In May 2011, Governor Edmund G. Brown Jr. appointed her to a three-year term as Board Member and Chair of the Board. Ms. Martinez was reappointed to a new five-year term in January 2014. Ms. Martinez retired effective July 5, 2016.

Prior to her Board Member and Chair 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 informal settlement conferences, representation hearings, representation elections, interest based bargaining training for PERB constituents and PERB staff training.

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 BA in Political Science from the University of San Francisco.

## **Legal Advisors**

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

**Katharine M. Nyman** was appointed as Legal Advisor to Member Mark C. Gregersen in June 2015. Previously, Ms. Nyman served as Regional Attorney in the Office of the General Counsel at PERB, where she worked from 2007 to 2015. Ms. Nyman received her Juris Doctor from the University of the Pacific (UOP), McGeorge School of Law, and received a Bachelor of Science degree in Environmental Design from the University of California, Davis.

**Joseph Eckhart** was appointed as Legal Advisor to Member Priscilla S. Winslow in April 2017. Prior to his appointment, Mr. Eckhart had served as a Regional Attorney in PERB's Office of the General Counsel since 2012, where he was responsible for investigating unfair practice charges and representation matters, conducting settlement conferences, and defending the Board's decisions in court.

Mr. Eckhart received a Bachelor of Arts in Political Science from the University of California, San Diego and a Juris Doctor from the University of California, Hastings College of the Law, from which he graduated Order of the Coif. While in law school, Mr. Eckhart served as a Senior Production Editor on the Hastings Law Journal and externed for the Honorable Claudia Wilken of the United States District Court for the Northern District of California.

**Sarah L. Cohen** served as Legal Advisor to Board Chair Anita I. Martinez from July 2011 through July 2016. 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.

**Russell Naymark** served as Legal Advisor to Board Member Priscilla S. Winslow from November 2013 through November 2016.

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

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

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

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

### **Administrators**

**J. Felix De La Torre** was appointed General Counsel in February 2015. Prior to his appointment, Mr. De La Torre served as Chief Counsel for Service Employees International Union, Local 1000, where he worked from 2008 to 2015. From 2000 to 2008, Mr. De La Torre was a partner and shareholder at (Van Bourg), Weinberg, Roger and Rosenfeld, where he represented both public and private sector employees in a wide range of labor and employment matters, including federal and State court litigation, labor arbitrations, collective bargaining, union elections, unfair labor practices, and administrative hearings. Mr. De La Torre also served as a member of the Board of Directors for the AFL-CIO Lawyers Coordinating Committee and the Sacramento Center for Workers Rights. In addition, Mr. De La Torre was a Staff Attorney and Program Director at the California Rural Legal Assistance Foundation (CRLAF) and, before that, the State Policy Analyst for the Mexican American Legal Defense and Educational Fund (MALDEF). Mr. De La Torre is also an Instructor at the UC Davis Extension in the Labor Management Certificate Program. Mr. De La Torre is a 1999 graduate of UC Davis' King Hall School of Law.

**Wendi L. Ross**, Deputy General Counsel [Acting General Counsel (May 2014 – February 2015), Interim General Counsel (December 2010 – April 2011)], joined PERB in April 2007 and has more than 27 years of experience practicing labor and employment law. Ms. Ross was employed for over ten years by the State of California, Department of Human Resources as a Labor Relations Counsel. Prior to that position, she was employed as an Associate Attorney with the law firms of Pinnell & Kingsley and Thierman, Cook, Brown & Prager. Ms. Ross received her Bachelor of Arts degree in Political Science-Public Service from U.C. Davis and her law degree from UOP, McGeorge School of Law. She has served as the Chair of the Sacramento County Bar Association, 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 over 20 years' experience as an Administrative Law Judge with two state agencies (PERB and the State Personnel Board) conducting hundreds of hearings involving public sector labor and employment matters. Prior to being employed as an administrative law judge, Mr. Cloughesy was a Supervising Attorney for the California Correctional Peace Officers Association, practicing and supervising attorneys who practiced before PERB and other agencies.



**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 has completed coursework in the Master of Public Administration degree program at California State University, Fullerton.

**Mary Ann Aguayo** joined PERB in January 2014 as its Chief Administrative Officer. Her primary responsibilities include providing leadership, under the direction of the Board itself, in areas of strategic planning, policy development and implementation, as well as communications with State's control agencies to ensure the Board's fiscal, technology, human resources, procurement, facilities, and security and safety programs remain compliant with current requirements.

Prior to assuming her current role, Ms. Aguayo spent over 20 years managing various administrative offices and programs within State agencies. Beginning her career at the State Personnel Board, she recently served as the Chief Administrative Officer for the Department of Water Resources' State Water Project Operations. This position included oversight of administrative services for over 1,100 employees and several multi-million dollar contracts.

Ms. Aguayo holds a Bachelor of Arts degree in Business Administration with a concentration in Human Resources Management from California State University, Sacramento. She is a graduate of the University of California, Davis' Executive Program, and in January 2014 obtained her certification as a Senior Professional in Human Resources.

## **History of PERB's Statutory Authority and Jurisdiction**

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

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

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

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

PERB's jurisdiction and responsibilities were changed in late June 2012 by the passage of Senate Bill 1036, which enacted the In-Home Supportive Service Employer-Employee Relations Act (IHSSEERA). The IHSSEERA was placed within the jurisdiction of PERB to administer and enforce, with respect to both unfair practices and representation matters. The IHSSEERA initially covered only eight counties: Alameda, Los Angeles, Orange, Riverside, San Bernardino, Santa Clara, San Diego, and San Mateo. On July 1, 2015, the County of San Bernardino, the County of Riverside, the County of San Diego, and the County of Los Angeles transitioned to the Statewide Authority under the IHSSEERA. The transition brought Los Angeles County under PERB's jurisdiction for the first time, while the other three counties were formerly subject to PERB's jurisdiction under the MMBA. On June 27, 2017, however, Senate Bill 90 repealed the IHSSEERA, returning the IHSS providers to the MMBA that were previously covered by the IHSSEERA.

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

Governor's Reorganization Plan 2, submitted to the Legislature on May 3, 2012, stated that PERB would be placed under the California Labor and Workforce Development Agency. Pursuant to Government Code section 12080.5, the change became effective on July 3, 2012.

On June 27, 2017, the passage of Assembly Bill 119 enacted the Public Employee Communication Chapter (PECC), a law designed to provide meaningful and effective communication between public employees and their exclusive representatives. The Legislature placed enforcement of the PECC under the Board's exclusive jurisdiction.

In fiscal year 2016-17, approximately 2.7 million<sup>2</sup> public sector employees and about 4,200 public employers fell under the jurisdiction of the collective bargaining statutory schemes administered by PERB. The approximate number of employees under these statutes is as follows: 825,000 work for California's public education system from pre-kindergarten through and including the community college level; 247,000 work for the State of California; 400,000 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 848,000 work for California's cities, counties, special districts; with the remainder working in the trial courts, and the Los Angeles County Metropolitan Transportation Authority.

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<sup>2</sup> Source: Office of the State Controller.

## **PERB's Major Functions—Detailed Description**

### **Unfair Practice Charges**

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

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

An unfair practice charge filed with PERB is reviewed by a Board agent to determine whether a prima facie violation of an applicable statute has been established. A charging party establishes a prima facie case by alleging sufficient facts to establish that a violation of the Dills Act, EERA, HEERA, MMBA, TEERA, Trial Court Act, Court Interpreter Act, or the PECC 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, the Board agent must dismiss it. The charging party may appeal the dismissal to the Board itself. Under regulations adopted effective July 1, 2013, the Board can designate whether or not its decision in these cases will be precedential or non-precedential.

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

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

Proposed decisions that are not appealed to the Board 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 are both binding on the parties to a particular case and precedential, except as otherwise designated by a majority of the Board members issuing dismissal decisions pursuant to PERB Regulation 32320, subdivision (d). Text and headnotes for all but non-precedential Board decisions are available on our website ([www.perb.ca.gov](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 may hold an informal settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation, and in some cases a hearing, and issues an administrative determination or a proposed decision. That determination or decision sets forth the appropriate bargaining unit, or modification of that unit, based upon statutory unit-determination criteria and appropriate case law. Once an initial bargaining unit has been established, PERB may conduct a representation election, unless the applicable statute and the facts of the case require the employer to grant recognition to an employee organization as the exclusive representative. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

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

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



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

A summary of PERB's 2016-2017 representation activity is on page 29.

### **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 assists in the preparation of 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, as well as overseeing the preparation of the administrative record for litigation filed in California's appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision, order, or ruling, or to 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 superior court 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 2016-2017 litigation activity begins at page 70.

## State Mediation and Conciliation Service

SMCS was created in 1947, and mediates under the provisions of all of the California public and quasi-public sector employment statutes, as well as the National Labor Relations Act. While SMCS has the ability to mediate in the private sector, it now only does so under certain exceptional circumstances, including statutory provisions at the state or local level, collective bargaining and local rules' language, and representation processes not performed by the Federal Mediation and Conciliation Service (FMCS). SMCS and the FMCS have informally agreed to divide the work between the public and private sectors for more than two decades, as the work has become more complex, requiring specialization, and resources in both agencies have been an issue.

The mediation and elections (representation) services provided by the SMCS Division of PERB are not to be confused by those provided by PERB's Office of the General Counsel. SMCS's work is performed strictly on the basis of mutual consent, and is confidential. Mediation is non-adjudicatory, with emphases on compromise and collaboration toward settlement. SMCS welcomes opportunities to speak with labor and management organizations and communities to provide information about the benefits of harmony in labor/management relationships through the effective use of mediation in their disputes.

The core functions of SMCS involve work that is performed at no charge to the parties, 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;
- Mediation of discipline appeals;
- Supervision of elections for decertification/certification of labor organizations, agency shop, and others; and
- Providing general education and information about the value of mediation in dispute resolution.

Chargeable services are also available. These include:

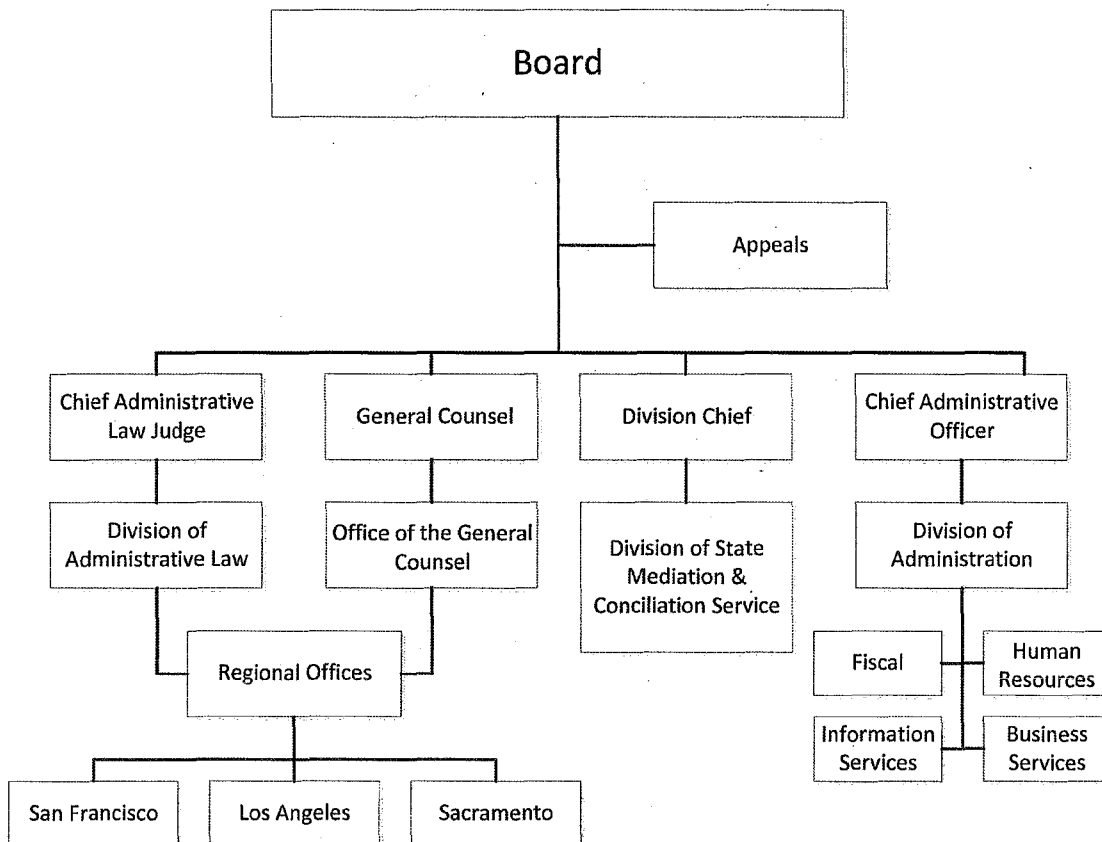
- Training and facilitation in interest-based bargaining, implementing effective joint labor-management committees, and resolving conflict in the workplace; and

- Assistance with internal union/employee organization elections or processes, or similar activities for labor or management that are not joint endeavors.

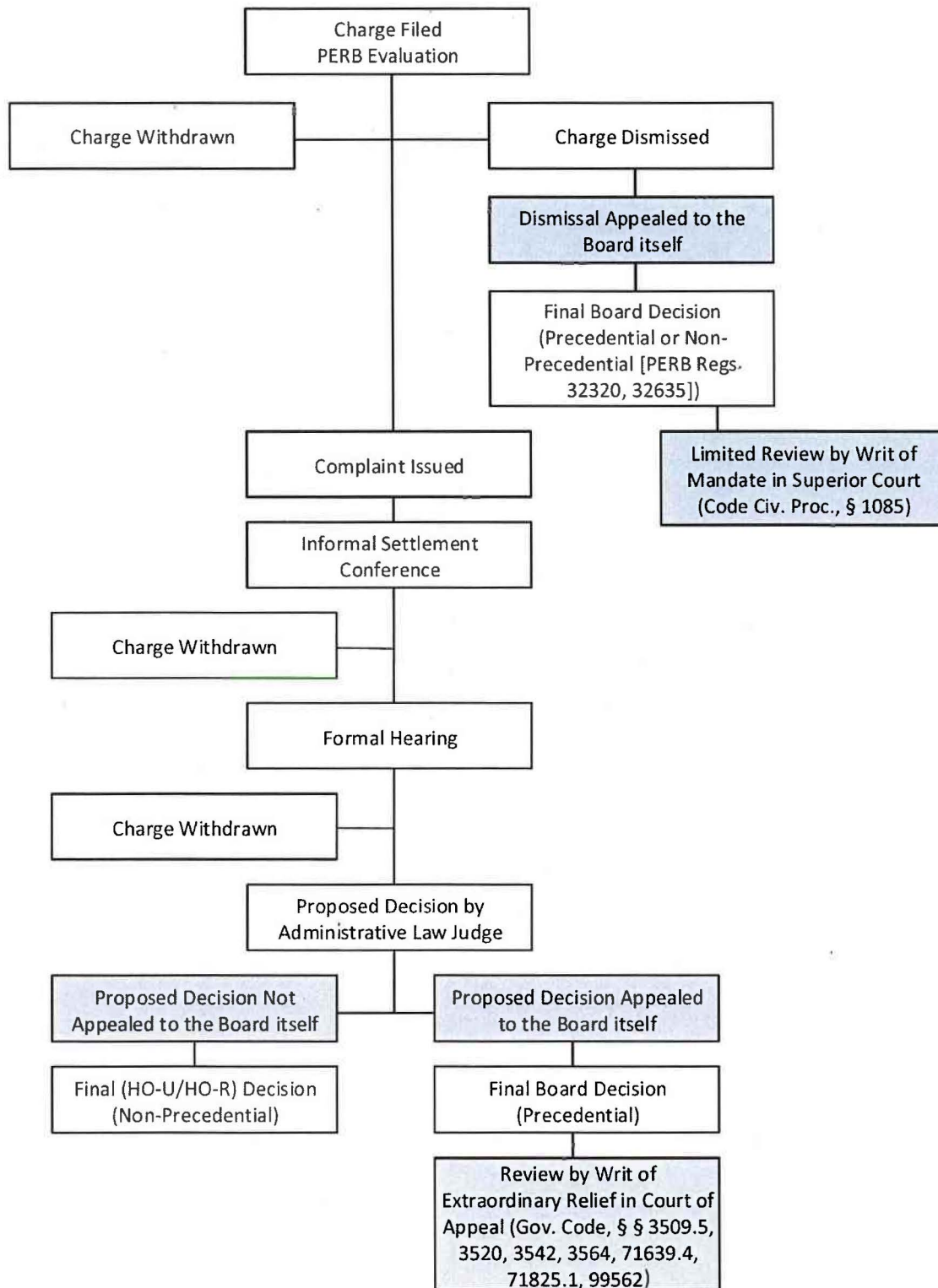
SMCS also administers a panel of independent arbitrators who are screened for qualifications and experience before being accepted to the panel. Lists of arbitrators can be provided for a fee, with no restrictions on whether or not the dispute is in the public or private sectors.

# Public Employment Relations Board

## Organizational Chart



# Unfair Practice Charge Flow Chart



## UNFAIR PRACTICE CHARGE (UPC) STATISTICS

### I. 2016-2017 by Region

Region	Total
Sacramento	155
San Francisco	232
Los Angeles	285
<b>Total</b>	<b>672</b>

### II. 2016-2017 by Act

Act	Total
Dills Act	60
EERA	240
HEERA	81
MMBA	261
TEERA	5
Trial Court Act	15
Court Interpreter Act	1
IHSSEERA	1
Non-Jurisdictional	8
<b>Total</b>	<b>672</b>

### III. Prior Year Workload Comparison: Charges Filed

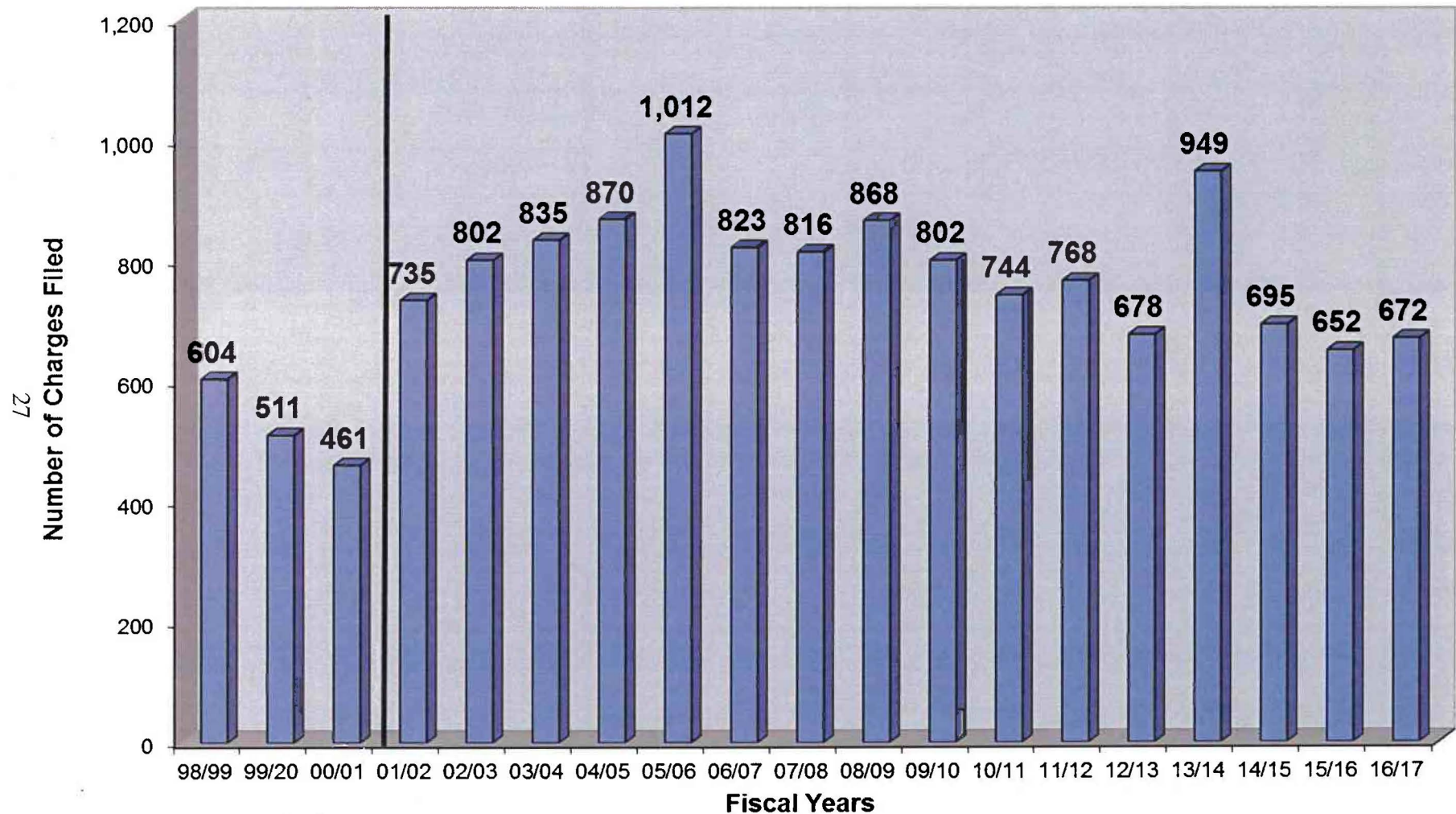
	2013/2014	2014/2015	2015/2016	2016/2017	4-Year Average
<b>Total</b>	949*	695	652	672	742

### IV. Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	61	27	81	169
San Francisco	74	61	92	227
Los Angeles	75	64	137	276
<b>Total</b>	<b>210</b>	<b>152</b>	<b>310</b>	<b>672</b>

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

# Unfair Practice Charge Filings



In fiscal year 2001-2002, the total number (935) was reduced by 200 for a similar set of filings. In fiscal year 2004-2005, the total number of charges filed (1,126) was adjusted to discount 256 nearly identical charges filed by a single group of employees.

## REQUESTS FOR INJUNCTIVE RELIEF (IR REQUESTS)

### Workload Comparison: IR Requests Filed

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	6-Year Average
<b>Total</b>	21	17	25	19	18	29	22



## 2016-2017 REPRESENTATION CASE ACTIVITY

### I. Case Filings

Case Type	Filed
Request for Recognition	40
Severance	5
Petition for Certification	0
Decertification	23
Amended Certification	8
Unit Modification	44
Organizational Security	0
Arbitration	0
Mediation Requests (EERA/HEERA/Dills)	182
Factfinding Requests (EERA/HEERA)	32
Factfinding Requests (MMBA)	41
Factfinding Approved (MMBA)	41
Compliance	31
<b>Totals</b>	<b>447</b>

### II. Prior Year Workload Comparison: Cases Filed

	2013-2014	2014-2015	2015-2016	2016-2017	4-Year Average
Fiscal Year	350	361	392	447	388

### III. Elections Conducted

Amendment of Certification	0
Decertification	9
Fair Share Fee Reinstatement	0
Fair Share Fee/Agency Fee Rescission	0
Representation	0
Severance	0
Unit Modification	0
<b>Total</b>	<b>9</b>

## ***Elections Conducted: 7/1/2016 to 6/30/2017***

<i>Case No.</i>	<i>Employer</i>		<i>Unit Type</i>	<i>Winner</i>	<i>Unit Size</i>
<i>Decertification</i>		<i>Subtotal:</i>	9		
LA-DP-00416-E	COMPTON USD		Operations, Support Services	Teamsters Local 911	321
LA-DP-00417-E	COMPTON USD		Office Technical/Business Services	Teamsters Local 911	223
LA-DP-00418-E	COMPTON USD		Security	Teamsters Local 911	50
LA-DP-00413-E	PORT OF LOS ANGELES HIGH SCHOOL		Wall Certificated	No Representation	
LA-DP-00422-E	COMPTON USD		Other Classified	Teamsters Local 911	95
SF-DP-00322-E	MORGAN HILL USD		Wall Classified	No Representation	312
SA-DP-00265-M	COUNTY OF SIERRA		Peace Officers		17
SF-DP-00327-M	SONOMA MARIN AREA RAIL TRANSIT DISTRICT		Operators	SECA	18
SF-DP-00325-E	WEST CONTRA COSTA USD		Wall Classified	Teamsters 856	1856

***Total Elections:***

9

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2388a-M	<i>International Association of Firefighters, Local 1319, AFL-CIO v. City of Palo Alto</i>	<p>In <i>City of Palo Alto</i> (2014) PERB Decision No. 2388-M, the Board held that the City violated the MMBA by failing to consult in good faith before passing a resolution referring to the voters a ballot measure to repeal the City Charter's interest arbitration provisions. As a remedy, it ordered the City to rescind the resolution.</p> <p>The Court of Appeal affirmed the Board's conclusion that the City violated the MMBA, but found that the Board did not have the authority to compel the City to rescind the resolution. The Court of Appeal annulled the Board's decision and remanded the matter to the Board.</p>	<b>Precedential Decision.</b> The Board vacated <i>City of Palo Alto</i> (2014) PERB Decision No. 2388-M and replaced it with a new decision. The Board again found that the City's actions violated the MMBA and issued an order declaring that the City's resolution was void.
2414a-M	<i>Service Employees International Union, Local 521 v. County of Tulare</i>	Following an unpublished decision by the California Court of Appeal, Fifth Appellate District, in which the Court largely affirmed the Board's decision in <i>County of Tulare</i> (2015) PERB Decision No. 2414-M, the Board reiterated its findings and conclusions of the previous decision, except its discussion of constitutionally vested rights appearing on pages 35-42.	<b>Precedential Decision.</b> On remand from the Court of Appeal, the Board vacated pages 35-42 of its decision in <i>County of Tulare</i> (2015) PERB Decision No. 2414-M, but otherwise reiterated its findings and conclusions of that decision.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2496-M	<i>United Professional Firefighters, Local 1230 v. City of Pinole</i>	The ALJ concluded that the City violated the MMBA by unilaterally closing one of its fire stations, but that the City did not violate the MMBA by unilaterally imposing a last, best and final offer requiring unit members to pay an increased pension contribution. Both parties filed exceptions.	<b>Precedential Decision.</b> After exceptions were filed, the parties settled their dispute and requested withdrawal. The Board granted the request and dismissed the unfair practice complaint and underlying charge with prejudice.
2497-M	<i>Service Employees International Union Local 1021 v. City of Fremont</i>	The ALJ dismissed a complaint alleging that the City: (1) improperly processed a decertification petition; (2) refused to utilize a third-party neutral to conduct the decertification election; (3) improperly provided legal advice to the decertification petitioner; (4) failed to recognize the charging party as the exclusive representative; and (5) demonstrated a preference for a competing employee organization. Both parties filed exceptions.	<b>Precedential Decision.</b> After exceptions were filed, the parties settled their dispute and requested withdrawal. The Board granted the request and dismissed the unfair practice complaint and underlying charge with prejudice.
2498	<i>Pablo Felix Pintor v. Pomona Unified School District</i>	The charge alleged that the District discriminated against charging party in violation of EERA by not properly crediting him with seniority credit or providing him proper compensation.	<b>Non-Precedential Decision.</b> The Office of the General Counsel dismissed the charge because it failed to state a prima facie case. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2499-M	<i>Housing Authority of the County of Alameda v. Service Employees International Union, Local 1021</i>	The Alameda County Housing Authority (Authority) appealed the dismissal of its unfair practice charge alleging that on or about May 19, 2015 and continuing to March 14, 2016, Service Employees International Union, Local 1021 unilaterally changed an established practice regarding the number of bargaining unit employees who are entitled to paid release time to attend labor negotiations in violation of the MMBA and PERB Regulations. After reaching a settlement agreement while the appeal was pending before the Board, the Authority then requested that it be allowed to withdraw its appeal.	<b>Non-Precedential Decision.</b> In furtherance of the MMBA's purpose of promoting harmonious labor relations, the Board granted the Authority's request to withdraw its appeal and affirmed the dismissal of the Authority's unfair practice charge as final and binding on the parties to this case only.
2500-S	<i>Andrea Thomas v. State of California (Department of Social Services)</i>	A State employee filed an unfair practice charge alleging violations of her right to union representation and of the union's right to represent employees in an informal grievance meeting. The Office of the General Counsel dismissed the charge for failure to state a prima facie case and for lack of standing, after determining that the employee's supervisor had not conditioned a meeting on the absence of representation or seek to the representative but had required additional information about the issues to be discussed before agreeing to meet with the employee and her representative.	<b>Non-Precedential Decision.</b> On appeal, the employee attempted to present additional facts, which were previously known and available to her, but which she had not included in the unfair practice charge because she did not understand the legal requirements for stating a prima facie case. Finding that the circumstances did not involve newly-discovered evidence that was not previously available, the Board declined to consider the newly-presented information on appeal and affirmed the dismissal of the unfair practice charge on a non-precedential basis.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2501-M	<i>Ivette Rivera v. East Bay Municipal Utility District</i>	Charging party alleged that the Utility District violated the MMBA in numerous ways including failing to provide her with the pay and privileges of a supervisor classification; failing to exclude her from the AFSCME bargaining unit; failing to investigate complaints made to the District's board of directors; telling her the grievance machinery was owned by the union after she voiced failing to accept or process her complaints about her classification; and by retaliating against her for voicing her complaints at District board meetings. Charging party also alleged that the District violated its Employer-Employee Relations Policy, as well as her due process rights and constitutional rights to free association, free speech, the right to petition her government, and the right to be free from government oppression. Lastly, charging party alleged that the District discriminated against her because of her gender.	<b>Non-Precedential Decision.</b> The Office of the General Counsel dismissed the charge for failure to state a prima facie case, lack of standing, lack of jurisdiction, and timeliness. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2502-M	<i>Ivette Rivera v. East Bay Municipal Utility District</i>	Charging party alleged that the Utility District violated the MMBA in numerous ways including implementing a quarterly sick leave review; issuing her a counseling memorandum; not asking for her signature on a hiring authorization form; denying her request to attend a conference; not selecting her for a working out of class assignment; and denying her request for a modified work schedule. Charging party also alleged that the District violated its Employer-Employee Relations Policy and other provisions of the Government Code. Lastly, charging party alleged that the District violated her constitutional rights.	<b>Non-Precedential.</b> The Office of the General Counsel issued a complaint based on the allegations that the District retaliated against charging party by issuing a counseling memorandum, denying her request to attend a conference, not selecting her for a working out of class assignment, and denying her request for a modified work schedule. The Office of the General Counsel dismissed all other allegations. The Board affirmed the partial dismissal of all but one of the allegations identified in the partial dismissal. The Board remanded the matter to the Office of the General Counsel for issuance of a complaint on the allegation that the District retaliated against charging party by implementing a quarterly sick leave review.
2503-M	<i>National Union of Healthcare Workers v. Salinas Valley Memorial Hospital District</i>	The Office of the General Counsel dismissed allegations in an unfair practice alleging that the District violated the MMBA by making unilateral changes to terms and conditions of employment and by dealing directly with employees.	<b>Non-Precedential Decision.</b> After the appeal was filed, the parties settled their dispute and requested withdrawal. The Board granted the request and dismissed the unfair practice charge with prejudice.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2504	<i>American Federation of State, County and Municipal Employees, Local 3112 v. Anaheim Union High School District</i>	The charging party, an exclusive representative of public school classified employees, excepted to the proposed decision of a PERB ALJ which dismissed the complaint and underlying unfair practice charge. The complaint alleged that the respondent school district had engaged in surface bargaining and committed other unfair practices in the parties' negotiations for a successor agreement, including conditioning agreement and/or insisted to impasse on non-mandatory subjects of bargaining, conditioning reinstatement of laid off employees and restoration of employees' hours on agreement to relinquish a favorable arbitration award; and reneging on a promise made to employees to restore their hours if the representative would agree to proposed changes to employee health and welfare benefits.	<b>Precedential Decision.</b> After discussing layoffs as a sidebar to negotiations, the charging party failed to communicate any objection to further discussion of this or any other, ostensibly non-mandatory subject of bargaining, which, under PERB precedent, is a requisite to bringing an allegation that a party to negotiations has unlawfully insisted to impasse on a permissive subject of bargaining. The charging party's other exceptions challenged various factual findings in the proposed decision but failed to explain how correcting the asserted error would alter the analysis or result. The Board adopted the proposed decision dismissing the complaint and unfair practice charge.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2505-M	<i>International Brotherhood of Electrical Workers, Local 1245 v. City of Roseville</i>	The charging party, an exclusive representative of municipal employees, excepted to a proposed decision dismissing the complaint and underlying unfair practice charge, alleging that the City had failed and refused to meet and confer in good faith during negotiations for a successor Memorandum of Understanding, unilaterally imposed terms and conditions less favorable than those offered in pre-impasse negotiations, and committed other unfair practices.	<b>Precedential Decision.</b> After considering various indicia of bad faith not specifically enumerated in the complaint but either closely related to matters alleged in the complaint or covered by the complaint's catch-all "including but not limited" verbiage for surface bargaining allegations, the Board affirmed the dismissal of the bad faith bargaining allegation but concluded that the City had violated the MMBA and PERB Regulations by unilaterally imposing employee retirement contributions that were inconsistent with its own pre-impasse proposals.
2506	<i>Madera Affiliated City Employees Association v. City of Madera</i>	Charging party alleged that the City violated the MMBA when it denied the Association's decertification petition as untimely.	<b>Precedential Decision.</b> The Board affirmed the conclusions reached by the ALJ. The City's contract bar and the City's rule limiting the filing of decertification petitions to a one-month period were consistent both with the MMBA and PERB Regulations, and therefore not unreasonable. Since the Association failed to file a decertification petition during the window period provided by the City's rules, the complaint and charge were properly dismissed.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2507	<i>Mara Jasmine Cirujeda Mastache v. San Diego Unified School District</i>	The charging party, a public school, appealed the dismissal of her unfair practice charge which alleged that her termination by the District violated EERA. The charge was dismissed as untimely, because it had not been filed with PERB until approximately one and one-half year after the termination.	<b>Non-Precedential Decision.</b> Because the charge was not filed until well after the six-month statute of limitations for an unfair practice charge, and was not subject to tolling, the Board affirmed the dismissal on timeliness grounds. Additionally, the charging party's assertion that she did not know of her legal rights and remedies with PERB sooner did not toll the statute of limitations, as lack of knowledge of PERB and its procedures or remedies does not excuse a late filing.
2508	<i>Mara Jasmine Cirujeda Mastache v. California School Employees Association</i>	The charging party, a public school employee, appealed the dismissal of her unfair practice charge alleging that the exclusive representative had violated its duty of fair representation by failing to grieve the charging party's probationary release from employment.	<b>Non-Precedential Decision.</b> The Board adopted the dismissal of the charge as untimely because the charging party did not file her charge with PERB until approximately one and one-half years after her release and after her last contact with the representative who had advised charging party that it would not file a grievance on her behalf.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2509	<i>Oakland Unified School District and Service Employees International Union Local 1021 / Oakland Unified School District and American Federation of State, County and Municipal Employees Local 257</i>	<p>The District abolished four existing classifications, of which two were represented by AFSCME and two by SEIU, and decided to reclassify all of the employees into one of two new classifications. AFSCME and SEIU each filed competing unit modification petitions seeking to place both of the new classifications into their respective units.</p> <p>The hearing officer concluded, based on an analysis of the community of interest factors, that one classification should be placed in each unit. Specifically, one of the new classifications focused on classroom instruction and was more similar to the abolished classifications from the SEIU unit; the other new classification included the physical care of special education students and was more similar to the abolished classifications from the AFSCME unit.</p> <p>SEIU filed exceptions.</p>	<p><b>Precedential Decision.</b> The Board affirmed the hearing officer's proposed decision. The Board agreed with the hearing officer that the community of interest was properly determined by comparing the job duties of the new and former classifications. The Board also agreed that the appropriate disposition was to remand for an investigation of whether proof of support was required, based on the size of the existing units and the numbers of employees to be added to each unit.</p>



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2510-M	<i>Joseph Sims v. City &amp; County of San Francisco (Public Works)</i>	Charging party, a municipal employee, appealed the dismissal of his unfair practice charge alleging that his termination from employment violated the MMBA.	<b>Non-Precedential Decision.</b> The Board agreed with the Office of the General Counsel that the charge included no facts indicating that the charging party's termination was motivated by protected activity, or that charging party had presented facts to support any other cognizable theory of any unfair practice within PERB's jurisdiction. Accordingly, the Board rejected the appeal and adopted the dismissal of the charge.
2511	<i>Michael Robertson v. San Dieguito Union High School District</i>	The charging party appealed the dismissal of his unfair practice charge, which alleged various violations of the public notice or "sunshine" requirements for collective bargaining proposals under EERA.	<b>Non-Precedential Decision.</b> The Board adopted the dismissal, reasoning that allegations that the bargaining proposals were too vague to constitute public notice were untimely, as they had not been brought within six months of the date they were published, while allegations that previously-undisclosed topics had been included in a tentative agreement were dismissed for failure to state a prima facie violation of EERA's public notice provisions because the allegedly new subjects included in the tentative agreement were inextricably related to subjects previously disclosed in parties' initial bargaining proposals.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2512-M	<i>Ivette Rivera v. East Bay Municipal Utility District</i>	Charging party alleged that the Utility District violated the MMBA in numerous ways including issuing a warning memorandum, issuing a counseling memorandum, denying her request for a modified work schedule, and not asking for her signature on a hiring authorization form. Charging party also alleged that the District violated its Employer-Employee Relations Policy and other provisions of the Government Code. Lastly, charging party alleged that the District violated her constitutional rights, including her rights to due process and free speech, and retaliated against her for whistle-blowing.	<b>Non-Precedential Decision.</b> The Office of the General Counsel issued a complaint based on the allegation that the District retaliated against charging party by issuing a warning memorandum. The Office of the General Counsel dismissed all other allegations. The Board affirmed the partial dismissal of the charge and adopted the partial warning and partial dismissal letters of the Office of the General Counsel.
2513-S	<i>Sam Wyrick v. State of California (Department of Veterans Affairs)</i>	Charging party, a State employee, appealed the dismissal of his unfair practice charge which alleged that the State had terminated his employment in retaliation for protected activity.	<b>Non-Precedential Decision.</b> The Board refused to find good cause to consider newly-presented information on appeal because the information was readily available to the charging party before he filed his amended charge and before the charge was dismissed. The Board agreed with the Office of the General Counsel that the charging party had failed to allege sufficient facts to state a prima facie case, including information demonstrating the timeliness of the material allegations. Accordingly, it denied the appeal and adopted the dismissal of the charge.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2514	<i>Christine L. Felician v. Santa Ana Unified School District</i>	The charging party, a former public school employee, appealed the dismissal of her unfair practice charge on a pre-hearing motion to dismiss for failure to prosecute.	<b>Precedential Decision.</b> The Board reversed the dismissal and remanded the matter for further proceedings because the dismissal had relied on disputed material facts without the benefit of a hearing.
2515-M	<i>San Luis Obispo Police Officers Association v. City of San Luis Obispo</i>	The City filed exceptions to a proposed decision, which found violations of the MMBA and PERB Regulations for submitting to voters a ballot measure to repeal the interest arbitration procedures found in the City Charter without first meeting and consulting in good faith with the exclusive representative of the City's police department employees. While the matter was pending before the Board, the City and the Union reached a settlement agreement that would implement an advisory factfinding process, similar to that found in the MMBA, in place of the former interest arbitration procedure for unresolved bargaining disputes. The parties requested that the City's exceptions be withdrawn and the matter dismissed pursuant to the terms of the settlement agreement.	<b>Precedential Decision.</b> Consistent with the MMBA's purpose of promoting harmonious labor relations, the Board granted the parties' request to withdraw the City's exceptions and to dismiss the complaint and unfair practice charge.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2516	<i>Lolita D. Coleman v. Berkeley Unified School District</i>	Charging party, a public school employee, appealed the dismissal of her unfair practice charge which alleged her employer violated the EERA by: (1) removing certain accommodations from charging party's job duties, and (2) preparing and issuing an unsatisfactory performance evaluation of charging party, allegedly in retaliation for charging party's protected activity. The Office of the General Counsel dismissed all allegations as either untimely and/or for failure to state a prima facie case of an unfair practice. On appeal, charging party argued that the Office of the General Counsel's investigation had ignored certain material information.	<b>Non-Precedential Decision.</b> The Board adopted the dismissal. The information ostensibly neglected by the Office of the General Counsel was either untimely, if considered as its own adverse action, or, would not support an inference of unlawful motive as it occurred before the charging party had engaged in protected activity. Employer actions that predate an employee's protected activity cannot serve as either adverse actions or as evidence of unlawful motive in a discrimination case, because they could not have been motivated by protected activity which had not yet occurred.
2517-C	<i>Service Employees International Union Local 521 v. Fresno County Superior Court</i>	An employer under the Trial Court Act excepted to a proposed decision finding that its personnel rules unlawfully: (1) prohibited employees from wearing union regalia anywhere in the courthouse; (2) restricted employees and their representative from distributing literature during nonworking time in nonworking areas; and (3) banned the display of union writings and images in all work areas visible to the public. The exclusive representative filed cross-exceptions, arguing that the proposed remedy was inadequate in various respects.	<b>Precedential Decision.</b> The Board largely adopted the findings and conclusions of the proposed decision but based liability for the court's prohibition against distributing literature at any time for any purpose in working areas on the unalleged violations doctrine, after concluding that the ALJ had improperly amended the complaint to include this allegation after the close of the hearing. The Board ordered the employer to rescind the unlawful provisions of its rules, to cease and desist adopting, enforcing or maintaining unreasonable

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			local rules and to post electronic and paper notice to employees of its readiness to comply with the law.
2518	<i>United Teachers Los Angeles v. Los Angeles Unified School District</i>	The ALJ concluded that the District violated EERA by unilaterally implementing a new teacher evaluation policy. The District filed exceptions.	<b>Precedential Decision.</b> The Board affirmed the ALJ. The primary issue in dispute was whether the policy was within the scope of representation under EERA. The Board agreed with the ALJ that it was, either because it was a specifically enumerated subject of bargaining as a procedures for the evaluation of employees (Gov. Code, § 3543.2, subd. (a)(1)), or because it was reasonably and logically related to that subject and negotiable under <i>Anaheim Union High School District</i> (1981) PERB Decision No. 177. The Board also rejected the District's arguments that UTLA waived its right to bargain and that the new policy was consistent with its past practice.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2519	<i>Maria Herdeliza L. Ciriaco v. Fremont Unified School District</i>	The Office of the General Counsel dismissed an unfair practice charge alleging that the District failed to meet and confer with the charging party's exclusive representative, violated the Education Code and the collective bargaining agreement, and terminated the charging party in retaliation for advocating on behalf of homeless students.	<b>Non-Precedential Decision.</b> The Board affirmed the dismissal, concluding that the charge failed to state a prima facie case and that the charging party's appeal did not comply with PERB Regulations. Although the Board determined that certain allegations were incorrectly dismissed as untimely, this was harmless error, because they did not otherwise state a prima facie case.
2520	<i>Rosie Mieko Kato v. California School Employees Association &amp; its Chapter 36</i>	The Office of the General Counsel dismissed an unfair practice charge alleging that her exclusive representative by, among other things, failing to fairly represent her in various disputes with her employer, by being discourteous to her, and by delaying in providing requested e-mail messages to her.	<b>Non-Precedential Decision.</b> The Board affirmed the dismissal, concluding that the charge failed to state a prima facie case and that the charging party's appeal did not comply with PERB Regulations.
2521	<i>Maria Herdeliza L. Ciriaco v. Fremont Unified District Teachers Association</i>	The Office of the General Counsel dismissed an unfair practice charge alleging that the charging party's exclusive representative violated its duty of fair representation	<b>Non-Precedential Decision.</b> The Board affirmed the dismissal, concluding that the charge failed to state a prima facie case and that the charging party's appeal did not comply with PERB Regulations.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2522-H	<i>California State University Employees Union v. Trustees of the California State University</i>	The charging party, the exclusive representative of higher education employees, appealed the dismissal of its unfair practice charge which had alleged that an employee had been terminated in retaliation for her protected activity of serving as a witness in support of a fellow employee's complaint against a supervisor. The charge also alleged that the higher education employer's acts and omissions constituted unlawful domination or interference with the formation or administration of an employee organization. The Office of the General Counsel dismissed the charge after concluding that it failed to allege sufficient facts to show that participation as a witness in the employer's non-collectively bargained complaint procedure on behalf of another employee was not protected activity. It did not consider the separate allegation of unlawful domination, or interference with the formation or administration of an employee organization.	<b>Precedential Decision.</b> The Board reversed the dismissal and remanded for further proceedings. After reviewing the charge allegations, the Board determined that the charge included sufficient facts to state a prima facie case of discrimination for protected activity. Because the Office of the General Counsel had not considered the domination or interference allegation, the Board remanded for investigation of this allegation.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2523-C	<i>Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO v. El Dorado County Superior Court</i>	Charging party, the exclusive representative of certain court employees, alleged that the employer had violated the Trial Court Act by refusing to bargain over increased health benefit rates for 2014, unless charging party could show changed circumstances, after the parties' negotiations for a successor agreement covering this and other subjects had previously resulted in impasse.	<b>Precedential Decision.</b> The Board adopted the findings and conclusions of the proposed decision. Although impasse is a "fragile" and "temporary" state of affairs that may be broken by a change in circumstances, usually through either a change of mind or the application of economic force, the charging party did not meet its burden of showing by substantial evidence that the impasse in negotiations had been broken by a change in either party's position.
2524-M	<i>National Union of Healthcare Workers v. Salinas Valley Memorial Healthcare System</i>	The ALJ dismissed an unfair practice complaint alleging that the respondent unilaterally changed its policies regarding the rebidding of schedules and shifts. The charging party filed exceptions.	<b>Precedential Decision.</b> The Board affirmed the dismissal of the complaint. Although the Board disagreed with the ALJ that there was a waiver of the right to bargain as a result of the failure by a predecessor exclusive representative to request bargaining, the Board concluded that the respondent's actions were consistent with its established rebidding policy.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2525-M	<i>Blaine Drewes v. City of Livermore</i>	A city excepted to a proposed decision finding that it had violated the MMBA and PERB Regulations by: (1) maintaining and enforcing an unreasonable local rule providing that no unit modification petition would be granted unless the proposed modification was supported by at least 60 percent of affected employees; and (2) unreasonably applying its local rules by failing to provide written findings before denying a unit modification petition filed by City employees.	<b>Precedential Decision.</b> The Board adopted the proposed decisions' factual findings and legal conclusions, as modified. The super-majority requirement interfered with employee rights to freely choose their representative. Following <i>Topanga Assn. for a Scenic Community v. County of Los Angeles</i> (1974) 11 Cal.3d 506, the Board held that a public agency must make factual findings and offer some explanation when applying its local rules governing unit determinations and representation matters.
2526-H	<i>State Employees Trades Council United v. Regents of the University of California (Los Angeles)</i>	The charging party, a successor union, excepted to a proposed decision which dismissed the complaint and unfair practice charge. The complaint alleged that the higher education employer had unilaterally changed the terms of a negotiated "me too" policy and denied skilled trades employees a collectively-bargained salary increase for retaliatory reasons. While the matter was pending before the Board, the parties reached a settlement agreement and requested that the exceptions be withdrawn.	<b>Precedential Decision.</b> Consistent with the purposes of HEERA to promote harmonious and cooperative labor relations between the State's public institutions of higher education and their employees, the Board granted the parties' request to withdraw the charging party's exceptions and to dismiss the complaint and unfair practice charge, consistent with the terms of their settlement agreement.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2527-S	<i>Danny Wilson v. State of California (Employment Development Department)</i>	Charging party alleged that the State violated the Dills Act in numerous ways when he was yelled at by a supervisor; his vehicle was vandalized; CHP failed to take a report of the vandalism; he had pay, vacation and benefit deficiencies; he endured treatment for refusing to sign a release form; CHP failed to render assistance to him the State ordered an air card device in his name; the State requested he share his Outlook calendar; he was unable to obtain an "employee position statement" from his manager; a manager refused to sign a timesheet; he was unable to join a leadership program; he was forced to take days off; he was demoted; and he experienced an issue applying for certain positions.	<b>Non-Precedential Decision.</b> The Office of the General Counsel dismissed the charge for failure to state a prima facie case, lack of standing, lack of jurisdiction, and timeliness. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2528	<i>Poway School Employees Association v. Poway Unified School District</i>	Charging party alleged that the District violated EERA by unilaterally implementing a dress code for staff without providing the Association with notice or an opportunity to negotiate.	<b>Non-Precedential Decision.</b> The Office of the General Counsel dismissed the charge after determining that the Association had failed to show that the District had a regular and consistent past practice of having no dress code. Finding that the subject of a dress code to be within the scope of representation and that the Association established a prima facie case that the District promulgated a dress code without first providing the Association with notice and an

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			opportunity to negotiate, the Board reversed the dismissal and remanded the matter to the Office of the General Counsel for issuance of a complaint
2529	<i>Joseph Omwamba v. Berkeley Unified School District</i>	Charging party alleged that the District violated EERA by retaliating against him for engaging in protected activity; violating his <i>Weingarten</i> right to representation; violating the evaluation procedures provided for in the collective bargaining agreement; and violating various provisions of the Education Code.	<b>Non-Precedential Decision.</b> The Office of the General Counsel dismissed the charge for failure to state a prima facie case and lack of jurisdiction. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2530	<i>Eric M. Moberg v. Monterey Peninsula Unified School District</i>	The Office of the General Counsel dismissed an unfair practice charge alleging that the District retaliated against a former employee by conspiring with other employers or prospective employers to deny charging party future employment with other districts.	<b>Precedential Decision.</b> The Board affirmed the dismissal. The Board agreed with the Office of the General Counsel that an individual has standing to file a charge against a former employer for allegedly blacklisting him, but that the charge did not state a prima facie case that the respondent conspired with other employers.



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2531-M	<i>Professional &amp; Scientific Employee Organization v. Santa Clara Valley Water District</i>	The charging party, a non-exclusive representative, filed exceptions to a proposed decision dismissing the complaint and the charging party's unfair practice charge. The complaint alleged that a public agency had violated the MMBA and PERB Regulations by failing to follow its local rules when considering and denying a unit modification petition, through which the charging party sought to establish a separate bargaining unit consisting of certain classifications of professional employees. The charging party did not seek to become the exclusive representative of the proposed unit but rather sought only to make the incumbent organization represent both the newly-established unit and its general unit separately.	<b>Precedential Decision.</b> The Board affirmed the proposed decision, concluding that the charging party's unit modification petition did not comply with the local rules, as charging party did not seek to become the exclusive representative of the proposed unit and, absent a representation election or a unit modification by the employer, could not force the incumbent organization to represent professional employees separately from the currently constituted general unit.

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2532-C	<i>Service Employees International Union Local 1021 v. Sonoma County Superior Court</i>	The ALJ found that the Court violated the Trial Court Act by refusing to allow an employee to have a union representative present for a meeting held as part of the interactive process to accommodate her disability. As a result of the meeting, the employee was demoted to a lower-paying position. Both parties filed exceptions.	<p><b>Precedential Decision.</b> The Board affirmed the ALJ and rejected both parties' exceptions. The Board rejected the respondent's exceptions that primarily disagreed with the Board's prior decision in <i>Sonoma County Superior Court</i> (2015) PERB Decision No. 2409-C. The Board also rejected the respondent's contention that it was prejudiced by the precedential effect of the prior decision.</p> <p>The Board also rejected the charging party's exceptions to the remedy, which argued that the employee should be awarded backpay to make her whole for the demotion. The Board did, however, order the respondent to, upon request by the employee, conduct a new interactive process meeting with a union representative.</p>



## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2533-H	<i>California State University Employees Union v. Trustees of the California State University (Chico)</i>	Charging party alleged that the University violated HEERA by unilaterally changing the work shift of an employee without providing the Union with notice and an opportunity to negotiate.	<p><b>Non-Precedential Decision.</b> The Office of the General Counsel dismissed the charge after determining the Union had failed to show that the change in work shift had a generalized effect or continuing impact on terms and conditions of employment.</p> <p>Finding that the University's actions had a generalized effect or continuing impact on the bargaining unit, the Board reversed the dismissal and remanded the matter to the Office of the General Counsel for issuance of a complaint.</p>
2534-M	<i>Ruben Casarez v. Imperial Irrigation District</i>	The charging party, a former employee of a public agency, appealed the dismissal of his unfair practice charge alleging various unfair practices, including that the charging party had been terminated in retaliation for his protected activity, and that the employer had enforced a previously undisclosed policy requiring charging party to forfeit his statutory and collectively-bargained rights to union representation.	<p><b>Non-Precedential Decision.</b> The Board denied the appeal for failure to comply with PERB Regulations and adopted the dismissal of the charge.</p>

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2535-M	<i>Service Employees International Union Local 721 v. County of Riverside</i>	Charging party, the exclusive representative of municipal employees, appealed the dismissal of its unfair practice charge as untimely. The charge alleged that a public agency had unilaterally changed the grievance-arbitration procedures established the parties' Memorandum of Understanding and past practice.	<b>Non-Precedential Decision.</b> After determining that the charging party had notice of the employer's position and its firm decision to abrogate the established practice in question, but failed to file an unfair practice charge until more than six months later, the Board affirmed the dismissal of the charge as untimely.
2536-M	<i>Service Employees International Union Local 1021 v. City &amp; County of San Francisco</i>	The ALJ concluded that the respondent violated the MMBA by threatening to enforce an unlawful local rule (contained in the City Charter) that prohibited employees from engaging in sympathy strikes. As a remedy, the ALJ ordered the respondent to remove the offending language from the City Charter. Both parties filed exceptions.	<p><b>Precedential Decision.</b> The Board affirmed the ALJ's conclusion that the respondent violated the MMBA. The Board reiterated that the MMBA gives employees a qualified right to strike, and concluded that this includes the right to engage in a sympathy strike. The Board rejected the respondent's argument that this prohibition was lawful as part of the respondent's procedures for binding interest arbitration of bargaining disputes. The Board also concluded that the exclusive representative did not waive the employees' rights to engage in a sympathy strike.</p> <p>The Board did modify the remedy ordered by the ALJ. The Board agreed with the respondent that the Board could not order the language removed from the City Charter, but instead declared that the</p>

## 2016-2017 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			language was void and unenforceable. The Board rejected the charging party's argument that the remedy should affect the entire City Charter provision at issue, not just the prohibition on sympathy strikes. The Board concluded that it was only the sympathy strike language that had been litigated in this case.

## 2016-2017 DECISIONS OF THE BOARD

### ADMINISTRATIVE DETERMINATIONS\*

\*Administrative Determinations decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-437a-H	<i>Debbie Polk v. Regents of the University of California / Teamsters Clerical, Local 2010</i>	Charging party, a higher education employee, requested reconsideration of a prior Board decision in which the Board had affirmed an administrative determination that charging party was not entitled to any further extensions of time in which to appeal the dismissal of her four unfair practice cases. The Board has reviewed Polk's request for reconsideration in light of the relevant law. Based on this review, and for the reasons discussed below, the Board denies Polk's request for reconsideration.	The Board denied charging party's request for reconsideration. Because the Board's reconsideration process was intended to call to the Board's attention prejudicial errors of fact or newly discovered evidence that was previously unavailable and could not have been discovered with reasonable diligence, but not to re- re-litigate issues that have already been fully considered and decided. The Board reasoned that a dismissal/refusal to issue a complaint on an unfair practice charge is not a decision of the type that lends itself to the reconsideration process.
Ad-441-M	<i>San Diego Metropolitan Transit System and Public Transit Employees Association and International Brotherhood of Electrical Workers, Local Union 465</i>	A petitioning employee organization seeking to represent transit district employees excepted to a hearing officer's recommendations to dismiss without a hearing the organization's objections to a representation election conducted by the SMCS. PERB, in its capacity as the governing board for SMCS, considered the petitioning organization's exceptions.	The Board denied the petitioning organization's exceptions and affirmed the hearing officer's recommendation to forego a hearing, as the petitioning organization's objections raised no material factual disputes that would alter the outcome of the election.



## 2016-2017 DECISIONS OF THE BOARD

### ADMINISTRATIVE DETERMINATIONS\*

\*Administrative Determinations decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-442	<i>Los Rios Community College District and Service Employees International Union Local 1021</i>	Charging party appealed the Office of the General Counsel's dismissal of its unit modification petition seeking to divide the existing Maintenance/Operations and Campus Police Officers Unit and create a separate police officer unit at the District.	The Board affirmed the Office of the General Counsel's dismissal finding that because the existing unit was a presumptively appropriate unit under <i>Sweetwater</i> and because SEIU alleged no facts establishing that its proposed unit was more appropriate, the unit modification petition was properly dismissed.
Ad-443	<i>Morgan Hill Unified School District and Service Employees International Union Local 521</i>	The Office of the General Counsel placed in abeyance a unit modification petition filed by the exclusive representative, pending the resolution of a decertification petition involving the same unit. The exclusive representative appealed and requested a stay of activity in the decertification case.	The Board denied the appeal and the request for stay on the grounds that the Office of the General Counsel's action was an interlocutory order, and therefore only appealable if the Board agent joined the appeal. Because the Board agent did not join the appeal, the matter was not appealable.
Ad-443a	<i>Morgan Hill Unified School District and Service Employees International Union Local 521</i>	SEIU requested reconsideration of the Board's decision in <i>Morgan Hill Unified School District</i> (2016) PERB Order No. Ad-443 on the grounds that SEIU filed a withdrawal of its appeal on the same day the Board issued its decision.	The Board denied the request for reconsideration. It concluded that the reconsideration process is not available following a decision on an administrative determination; that the matter was moot after SEIU lost the decertification election and did not file objections; and that SEIU had not stated grounds for reconsideration.

## 2016-2017 DECISIONS OF THE BOARD

### ADMINISTRATIVE DETERMINATIONS\*

\*Administrative Determinations decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-444-M	<i>San Luis Obispo Police Officers Association v. City of San Luis Obispo</i>	An employee organization representing municipal firefighters moved to intervene and applied for joinder to participate as a party in an unfair practice case brought by an employee organization representing police department employees of the same city. The complaint alleged that city's governing body had placed before voters two ballot measures, one affecting employee retirement benefits and another to repeal the city charter's interest arbitration provisions for resolving bargaining disputes with the police and firefighter units.	Although PERB's Regulation governing intervention and joinder does not include a statute of limitations, the Board denied the motion to intervene and application for joinder as untimely because the employee organization could have filed its own unfair practice charge but failed to do so and therefore could not use the joinder regulation as a way to circumvent the six-month limitations period.
Ad-445-M	<i>City of Watsonville and Watsonville Police Officers Association and Watsonville Public Safety Mid-Management Unit</i>	Charging party appealed the Office of the General Counsel's administrative decision that the request for factfinding was untimely pursuant to the MMBA and PERB Regulations.	The Board affirmed the administrative decision finding that the Association failed to make its request for factfinding within the 30-day window outlined in the MMBA and PERB Regulations. (Dissent—Member Banks.)

## 2016-2017 DECISIONS OF THE BOARD

### ADMINISTRATIVE DETERMINATIONS\*

\*Administrative Determinations decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-446	<i>Lori E. Edwards, et al. v. Lake Elsinore Unified School District</i>	A public school employer, the respondent in an unfair practice case, appealed from an administrative determination that its response to charging party's exceptions to a proposed decision was rejected as untimely. The employer requested that the Board find good cause to excuse the late filing because the employer's attorney was confused by charging party's filing, which occurred on two separate dates, and had misunderstood the filing deadlines under PERB's Regulations.	Because "the Board has not found good cause in situations where the party's attorney was directly responsible for [a] late filing," the Board found no grounds to excuse the late filing and denied the employer's appeal.
Ad-447	<i>California School Employees Association and its Chapter 32 v. Bellflower Unified School District</i>	Charging party, an employee organization, appealed from an administrative determination which had rejected as untimely the organization's response to exceptions to a proposed decision in the underlying unfair practice case. The appeal acknowledged that the late filing was due to attorney error when applying PERB's Regulations governing filing deadlines.	Because "the Board has not found good cause in situations where the party's attorney was directly responsible for [a] late filing," the Board found no grounds to excuse the late filing and denied the organization's appeal.



## 2016-2017 DECISIONS OF THE BOARD

### ADMINISTRATIVE DETERMINATIONS\*

\*Administrative Determinations decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-448	<i>NEA Alameda Community Learning Center United v. Community Learning Center Schools, Inc.</i>	PERB ALJ requested that the Office of the General Counsel seek enforcement of NEA's subpoena duces tecum seeking disclosure of documents from the Community Learning Center Schools, Inc.'s legal counsel.	The Board declined to seek enforcement of the subpoena in its current state and remand this matter back to the ALJ for greater clarification on the scope of the subpoena and any potential waivers as well, as the proper time span of the subpoena as a whole.
Ad-449	<i>Lori E. Edwards, et al. v. Lake Elsinore Unified School District</i>	Charging parties, who were public school employees, appealed from an administrative determination, which had rejected as untimely their attempted amendment to a previously-filed statement of exceptions to a proposed decision in the underlying unfair practice case. The appeal asked the Board to find good cause to excuse the late filing because one of charging parties had a family emergency.	Even after applying a five-day extension of the deadline for service by mail and the weekend/holiday extension of time provided for by PERB Regulations, charging parties' administrative appeal was itself untimely by four days and, because charging parties had not shown good cause for the untimely administrative appeal, the Board declined to reach the merits of their argument that good cause existed to excuse the late filing of their proposed amendment to the statement of exceptions.



## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR JUDICIAL REVIEW\*

\*Requests for Judicial Review decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
JR-27	<i>California Virtual Academies v. California Teachers Association</i>	The employer requested that the Board join in seeking judicial review of the decision in <i>California Virtual Academies</i> (2016) PERB Decision No. 2484, which concluded that a network of 11 charter schools was a “single employer” and that a single unit of teachers at all 11 schools was appropriate.	The Board denied the request, concluding that the case was not one of “special importance.” (Gov. Code, § 3542, subd. (a)(1).) Applying the test of special importance from <i>Burlingame Elementary School District</i> (2007) PERB Order No. JR-24, the Board concluded that the single employer issue, that the case primarily involved factual questions, not statutory interpretation, and that the issue was unlikely to arise frequently.

## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF\*

\*Requests for Injunctive Relief decided by the Board itself are **Precedential Decisions**.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
There were no Requests for Injunctive Relief decided by the Board this fiscal year.			

## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 701	<i>County of San Joaquin v. Service Employees International Union, Local 1021</i>	Whether the union committed an unfair practice by engaging in a strike of an undisclosed duration that included essential employees.	Request granted, in part.
I.R. 702	<i>Dave Lukkarila v. Claremont Unified School District</i>	Whether the District violated EERA based on allegations that it: (1) removed charging party's work mailbox; (2) removed his e-mail address from the address book and website; (3) issued a directive that he not contact employees, students, or parents, and to refrain from using its electronic resources; (4) issued a directive that he not contact CFA members; (5) blocked access to his e-mail account; (6) issued a Letter of Reprimand; (7) issued a disciplinary suspension; (8) issued a directive prohibiting contact with employees, use of electronic resources, and visits to District property; and (9) terminated his employment.	Request denied.
I.R. 703	<i>Yuba City Unified School District v. Yuba City Teachers Association</i>	Whether PERB should enjoin employees from striking under <i>Compton Unified School District</i> (1987) PERB Decision No. IR-50. Also, whether PERB should seek injunctive relief to require the Association to provide notice of the duration of any impending strike, and to prohibit Association members from allegedly threatening other employees.	Request denied.

## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 704	<i>Victor Serrano, Jeff Walker and Association of Long Beach Employees v. City of Long Beach</i>	Whether the City: (1) interfered with the Association's rights by agreeing to re-run the election and recognize a competing organization; (2) violated its local rules related to conducting a new election; (3) showed preference for another employee organization; and (4) violated the "card check" rule by conducting an election under its local rules.	Request denied.
I.R. 705	<i>Santa Clara County District Attorney Investigators Association v. County of Santa Clara</i>	Whether the County violated the MMBA by unilaterally implementing a new policy with respect to the usage of police surveillance equipment.	Request denied.
I.R. 706	<i>Antelope Valley Hospital District v. California Nurses Association</i>	Whether CNA improperly or prematurely declare impasse and embarked on a 24-hour strike in violation of the MMBA?	Request denied.
I.R. 707	<i>Coachella Valley Unified School District v. Coachella Valley Teachers Association</i>	Whether the Coachella Valley Teachers Association: (1) engaged in unlawful work stoppages and slowdowns, and prepared for additional concerted activities prior to exhausting the statutory impasse procedures; and (2) employed an unlawful pressure tactic when it allegedly "organized, encouraged and/or condoned" students to walk-out of school in protest during instructional time.	Request denied.

## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 708	<i>El Camino Valley Hospital District v. IUOE Stationary Engineers Local 39</i>	The Hospital District alleged bad faith bargaining by the union and asked PERB to enjoin essential employees when the union threatened to strike.	Request withdrawn.
I.R. 709	<i>County of San Joaquin v. Service Employees International Union, Local 1021</i>	Whether the Board should enjoin SEIU Local 1021 members that work at the County Registrar of Voters from striking as a precaution on election day and 28-days post-election.	Request denied.
I.R. 710	<i>SEIU, United Long Term Care Workers Local 643 v. North Kern South Tulare Hospital District</i>	(1) Whether there was reasonable cause to believe that the employer violated the MMBA; and (2) whether it would have been just and proper for PERB to seek injunctive relief on behalf of the SEIU Local 2015 against the District. SEIU alleged that the District failed and refused to recognize SEIU as the exclusive representative of two bargaining units; interfered with SEIU's and employees' exercise of MMBA-protected rights; interfered with, intimidated, and coerced employees into supporting and signing a decertification petition; and retaliated and/or discriminated against union representatives and unit member supporters for engaging in protected conduct.	Request withdrawn.
I.R. 711	<i>Statewide University Police Association v. Trustees of the California State University</i>	The Court requested that PERB seek to enjoin 12 employees from participating in an indefinite strike on the basis that the employees were "essential."	Request granted.



## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 712	<i>Santa Cruz County Superior Court v. Service Employees International Union Local 521</i>	Whether to enjoin an investigatory interview of an employee/union steward accused of misconduct. The union alleged this interview was retaliatory and chilled employees' rights because the employer already knew the details of the employee/union steward's conduct.	Request denied.
I.R. 713	<i>State of California (Department of Human Resources) v. Service Employees International Union Local 1000</i>	Whether SEIU Local 1000's one-day strike of 95,000 State workers is unlawful and should be enjoined in its entirety, or only as to essential employees.	Request denied.
I.R. 714	<i>Regents of the University of California v. Teamsters Local 2010</i>	Whether a planned strike is illegal under HEERA and should be entirely enjoined or, failing that, be enjoined as to time, place, and manner.	Request denied.
I.R. 715	<i>Regents of the University of California v. Teamsters Local 2010</i>	Whether, under <i>County Sanitation</i> , Public Safety Dispatchers are essential employees as a matter of law.	Request granted, in part.
I.R. 716	<i>AFSCME Local 143 v. Housing Authority of the City of Los Angeles</i>	Whether injunctive relief is just and proper to remedy the employer's pre-factfinding implementation of its last, best and final offer to increase employee health care premium contributions.	Request denied.

## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 717	<i>Sonoma County Superior Court v. Service Employees International Union Local 1021</i>	Should certain employees of the Court, in the classifications of Court Reporter, Courtroom Clerk, and Legal Process Clerk, be enjoined from participating in a strike?	Request withdrawn.
I.R. 718	<i>County of Shasta v. United Public Employees of California, Local 792</i>	Whether UPEC's strike was unlawful as it included essential employees.	Request granted, in part.
I.R. 719	<i>Public Employees Union Local 1 v. County of Contra Costa</i>	Whether the County violated its local rules concerning a decertification petition and election.	Request denied.
I.R. 720	<i>Public Employees Union Local 1 v. County of Sutter</i>	Whether the County violated its local rules by processing decertification and representation petitions filed by the United Public Employees of California Local 792. Local 1 alleges that the petitions were untimely and filed by an unregistered employee organization.	Request denied.
I.R. 721	<i>Service Employees International Union, Local 721 v. City of San Buenaventura</i>	Whether the City ordered a representation election in contravention of its local rules.	Request denied.

## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 722	<i>Jefferey L. Norman, et al. v. Riverside County Office of Education</i>	Whether the Riverside County Office of Education violated EERA by failing to investigate a uniform complaint	Request denied.
I.R. 723	<i>Kourosh (Ken) Hamidi v. Service Employees International Union Local 1000</i>	Hamidi alleged that SEIU had failed to provide him with financial disclosures from 2007 to 2016 and sought an order awarding him all the agency fees he had paid over that period of time.	Request denied.
I.R. 724	<i>Union of American Physicians &amp; Dentists v. Alameda Health System</i>	UAPD alleged that the Health System had unilaterally contracted-out work when it issued requests for proposals (RFPs) seeking bids from outside contractors to provide psychiatric services. UAPD sought an injunction requiring the Health System to rescind the RFPs. It claimed this injunction was necessary because when the Health System previously had contracted-out similar psychiatric work, some unit members had been hired away by the contractor, which degraded the strength of the bargaining unit.	Request denied.
I.R. 725	<i>City of Sunnyvale v. Sunnyvale Employees Association</i>	The City asked PERB for injunctive relief to enjoin essential employees (29) from striking.	Request withdrawn.



## 2016-2017 DECISIONS OF THE BOARD

### REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 726	<i>Aptos/La Selva Firefighters Association, Local 3535; Aptos/La Selva Chief Officers' Association v. Aptos/La Selva Fire Protection District</i>	Whether PERB should seek to enjoin the Aptos/La Selva Fire Protection District from conducting interviews of four union officers about their alleged roles in a gender discrimination complaint filed at the Department of Fair Employment and Housing?	Request denied.
I.R. 727	<i>United Steel Workers TEMSA Local 12911 v. Oak Valley Hospital District</i>	Whether PERB should pursue an injunction in the superior court that requires Oak Valley Hospital District to recognize the United Steel Workers (USW) and resume collective bargaining?	Request granted.
I.R. 728	<i>Association of San Diego County Employees v. County of San Diego</i>	Whether the County of San Diego implemented an unlawful unilateral change by making wage adjustments to employees that do not have an employer retirement contribution to offset.	Request denied.
I.R. 729	<i>SEIU Local 1021 v. Metropolitan Transportation Commission</i>	Whether the Metropolitan Transportation Commission has maintained and applied unlawful local rules on representation matters, or whether MTC's application of those local rules was unlawful.	Request denied.

## 2016-2017 LITIGATION CASE ACTIVITY

1. *County of Riverside v. PERB (SEIU Local 721)*, May 6, 2016, Supreme Court, Case No. S234326; California Court of Appeal, Fourth Appellate District, Division One, Case No. D069065; Factfinding [PERB Case No. LA-IM-127-M]. Issues: (1) Whether MMBA factfinding is limited and only available when the impasse arises from negotiations for a new or successor comprehensive MOU; (2) Whether MMBA factfinding violates the constitutional rights provided in Art. XI, section 11, subd. (a) [and section 1, subd. (b)]; (3) Should the Court of Appeal's granting of the anti-SLAPP motion be reversed because it punishes the County for seeking judicial review, and did the Court of Appeal "distort anti-SLAPP law by willfully reviewing [the trial court's denial] de novo"? The County filed a Petition for Review on May 6, 2016 with the Supreme Court of California. PERB filed its Answer to Petition for Review on May 27, 2016. The County's Reply to PERB's Answer to Petition for Review was filed on June 6, 2016. On July 13, 2016, the Supreme Court denied the County's Petition for Review. This case is now complete.
2. *San Diego Housing Commission v. PERB (SEIU Local 221)*, July 7, 2014, California Court of Appeal, Fourth Appellate District, Division One, Case No. D066237; San Diego County Superior Court, Case No. 37-2012-00087278-CU-MC-CTL; Factfinding [PERB Case No. LA-IM-116-M]. Issue: Whether the San Diego Superior Court erred by granting the Commission's motion for summary judgment and determining that PERB's factfinding determination as to a "single issue" was erroneous. PERB filed its appeal on July 7, 2014. San Diego Housing Commission (SDHC) filed a Notice of Appeal with respect to the denial of its Motion for Attorney Fees. PERB filed its Opening Brief on March 23, 2015. The parties stipulated to a 15-day extension of time for SDHC's Respondent's/Opening Brief to be filed on or before July 7, 2015. SDHC's Respondent's/Opening Brief was filed on July 7, 2015. PERB's filed its Respondent's Brief on September 8, 2015. SEIU did not file a brief. On or about October 16, 2015, PERB and SDHC filed their respective Request for Oral Argument. On October 29, 2015, SDHC filed its Cross-Appellant's Reply Brief. On November 12, 2015, League of California Cities and California State Association of Counties (LCC/CSAC) filed an Application to file an Amicus Curiae Brief. On November 30, 2015, PERB filed an Opposition to LCC/CSAC's Application of Amicus Curiae for Leave to File Amicus Brief. On December 1, the Court granted LCC/CSAC's application and filed its joint amicus brief. On December 29, 2015, PERB filed its Answer to Amicus Curiae Brief. Oral Argument was held on March 14, 2016. The Court of Appeal issued its decision on March 30, 2016, and ruled in PERB's favor overturning the trial court's interpretation regarding the scope of issues that can be submitted to factfinding under the MMBA. The

Court dismissed SDHC's cross-appeal as moot. The Court certified the decision for publication, and awarded costs to PERB. PERB closed this matter on October 26, 2016.

3. *San Diego Housing Commission v. PERB (SEIU Local 221)*, May 10, 2016, Supreme Court, Case No. S234414; California Court of Appeal, Fourth Appellate District, Division One, Case No. D066237; Factfinding [PERB Case No. LA-IM-116-M]. Issue: Whether MMBA factfinding is limited and only available when the impasse arises from negotiations for a new or successor comprehensive MOU. SDHC filed a Petition for Review on May 10, 2016 with the Supreme Court of California. PERB filed its Answer to Petition for Review on May 31, 2016. SDHC's Reply to PERB's Answer to Petition for Review was filed on June 10, 2016. On July 13, 2016, the Supreme Court denied SDHC's Petition for Review. This case is now closed.
4. *City of Palo Alto v. PERB (International Association of Firefighters, Local 1319, AFL-CIO)*, September 5, 2014, California Court of Appeal, Sixth Appellate District, Case No. H041407; PERB Decision No. 2388-M [PERB Case No. SF-CE-869-M]. Issue: Whether the Board clearly erred in Decision No. 2388-M holding that the City violated the MMBA when it approved a ballot measure repealing binding interest arbitration for impasse disputes, without first noticing and then meeting and consulting with the IAFF. The City's Writ Petition was filed on September 5, 2014. The Administrative Record was filed on November 14, 2014. Petitioner's Opening Brief was filed on December 19, 2014. PERB and the International Association of Firefighters (IAFF) were both granted a 45-day extension of time to file their respective Respondent's Brief. PERB and IAFF filed their respective Respondent's Brief on March 13, 2015. The City filed its Reply Brief on April 27, 2015. On May 13, 2015, the League of California Cities filed an Application to File an Amicus Brief along with the proposed brief. On March 24, 2016, the Court issued a Writ of Review requesting supplemental briefing addressing the remedial authority of PERB and the separation of powers doctrine. The Application for Leave to File Amicus Brief was granted. Petitioner filed its Supplemental Brief on April 8, 2016. PERB filed its Answer to Amicus Curiae Brief on April 15, 2016. PERB filed its Supplemental Brief and Request for Judicial Notice on April 25, 2016. IAFF filed its Supplemental Brief and Answer to Amicus Curiae Brief on April 25, 2016. All parties requested Oral Argument. On November 23, 2016, the Court issued its decision, remanding the matter to the Board. The Decision became final on December 23, 2016. A Petition for Review was filed with the Supreme Court on January 4, 2017. On March 15, 2017, the Court denied the Petition for Review, and a Remittitur was issued. This case is now closed.
5. *CAL FIRE Local 2881 v. PERB (State of California [State Personnel Board])*, February 17, 2015, Sacramento Superior Court, Case No. 34-2015-80002020; PERB Decision No. 2317a-S [PERB Case No. SA-CE-1896-S]. Issue: Whether the Board

erred in Decision No. 2317a-S by affirming a Board Agent's dismissal of a charge filed by Local 2881 alleging that SPB violated the Dills Act by unilaterally amending the regulations under which State Personnel Board (SPB) conducts disciplinary proceedings for employees represented by Local 2881, without meeting and conferring in good faith. In the prior/related case, on October 15, 2014, the Court granted CAL FIRE's Writ Petition and ordered that PERB Decision No. 2317-S be set aside and reissued. On December 5, 2014, the court issued a Judgment Granting Writ of Mandate in Part and Denying Writ in Part. On December 19, 2014, the Board set aside Decision No. 2317-S, and issued Decision No. 2317a-S. Local 2881 then filed a Verified Petition for Writ of Mandate with the Sacramento County Superior Court on February 17, 2015. PERB and SPB filed their respective Answers on or about March 24, 2015. CAL FIRE's Opening Brief was filed on March 22, 2016. PERB filed its Opposition Brief on April 11, 2016. Real Party in Interest State of California (SPB) filed their Opposition on April 11, 2016, along with a Request for Judicial Notice. On April 21, 2016, Petitioner filed its Reply in Support of its Verified Petition for Writ of Ordinary Mandate. Oral Argument was held on May 6, 2016. CAL FIRE's Petition for Writ of Mandate is denied. On May 18, 2016, the court signed the final Judgment. On June 2, 2016, PERB served the Notice of Entry of Judgment. On July 19, 2016, Local 2881 filed with the superior court a Notice of Appeal and Appellant's Notice Designating Record on Appeal.

6. *CAL FIRE Local 2881 v. PERB; (State of California [State Personnel Board])*, July 19, 2016, California Court of Appeal, Third Appellate District, Case No. C082532; PERB Decision No. 2317a-S [PERB Case No. SA-CE-1896-S]. Issue: Whether the Sacramento Superior Court erred in denying CAL FIRE's [Second] Petition for Writ of Mandate. CAL FIRE argued before PERB that the SPB had a duty to bargain with the Union prior to revising its disciplinary regulations. The court denied CAL FIRE's writ and found that there is a reasonable basis on which PERB could find SPB does not have a duty to bargain with the Union - namely, if SPB was acting in its capacity as a "regulator" when it changed its disciplinary regulations; PERB's decision was not "clearly erroneous." Previously, CAL FIRE had filed its [First] Petition for Writ Mandate, and the court granted the petition and ordered PERB to set aside its decision and issue a new decision because PERB erred in finding no duty to bargain because, to violate the "meet and confer" requirement of section 3519 of the Dills Act, the "state" must be acting in its role as an "employer" or "appointing authority." CAL FIRE filed with the trial court a Notice of Appeal and Appellant's Notice Designating Record on Appeal on July 19, 2016. The Third DCA lodged the Notice of Appeal on July 25, 2016. After all parties submitted mediation statements, the Third DCA issued a letter on August 22 stating the appeal was not selected for mediation, all proceedings in the appeal are to recommence as if the notice of appeal had been filed on August 22, 2016, all parties are directed to proceed with procurement of the record and then upon timely filing of the record, file briefs in compliance with the CRC. The Administrative Record was deemed filed on January 10,

2017. The Appellant's Opening Brief was filed on April 21, 2017. PERB's Respondent's Brief was filed on May 18, 2017. CAL FIRE's Reply Brief was filed on June 8, 2017. This matter is now fully briefed.

7. *County of Tulare v. PERB (SEIU Local 521)*, March 30, 2015, Fifth District Court of Appeal, Case No. F071240; PERB Decision No. 2414-M [PERB Case No. SA-CE-748-M]. Issue: Whether PERB erred in Decision No. 2414-M by reversing a proposed ALJ decision, and instead holding that: (1) in bargaining the 2009-2011 MOU, SEIU Local 521 and the County of Tulare intended to create a contractual right to merit-based promotions and salary increases effective after expiration of the MOU; (2) terms in the 2009-2011 MOU constitute a waiver of the County's statutory right to implement the terms of its final offer at impasse of a successor MOU (which included suspension of the merit-based promotions and salary increases); and (3) SEIU-represented County employees have a constitutionally-vested right to future merit-based promotions and salary increases. This case was filed in the Fifth District Court of Appeal on March 30, 2015. On April 2, 2015, PERB filed an Extension of Time to File the Certified Administrative Record. The court granted the extension to May 11, 2015. The Administrative Record was filed on May 8, 2015. The County filed its Opening Brief, along with Request for Judicial Notice and Exhibits on June 12, 2015. PERB filed its Respondent's Brief on August 14, 2015, and SEIU filed its brief on August 18, 2015. The County's Reply Brief was filed on September 8, 2015. On September 18, 2015, the League of California Cities and California State Association of Counties filed an Amicus Curiae Application/Brief in support of the County. PERB and SEIU each filed their Answer to the Amicus Curie Brief on or about October 23, 2015. Oral Argument was held on June 29, 2016. On July 11, 2016, the Court denied the County's Petition for a Writ of Extraordinary Relief. Both the County and SEIU sought publication of the decision, which the court denied. This litigation is now closed.
8. *San Luis Obispo Deputy County Counsel Association and San Luis Obispo Government Attorneys' Union v. PERB (County of San Luis Obispo)*, June 24, 2015, California Court of Appeal, Second Appellate District, Case No. B265012; PERB Decision 2427-M [PERB Case No. LA-CO-123-M & LA-CO-124-M]. Issue: Whether the Board erred in Decision No. 2427-M when it affirmed the ALJ's conclusion that Petitioners violated the MMBA in refusing to bargain over the County's pension cost-sharing proposal; holding that employee contribution levels and distribution under the County pension plan were not vested. In addition, the Board found no vested right to the absence of a prevailing wage offset obtained through concessions. The Unions filed a Petition for Writ of Extraordinary Relief and Supporting Memorandum on July 24, 2015 with the Second Appellate District, Division 6. The Administrative Record was filed on September 4, 2015. The Unions filed their Opening Brief on October 30, 2015. PERB and the County filed their respective Respondent's Briefs on or around December 21, 2015. The Unions filed their Reply Brief and Request for Judicial Notice on January 14, 2016. PERB and

the County filed their respective Opposition to Request for Judicial Notice on January 26, 2016, and January 22, 2016. On October 28, 2016, the Court denied the petition, as well as the Request for Judicial Notice. On November 8, 2016, a Petition for Review was filed with the Supreme Court (See Item #9 below).

9. *San Luis Obispo Deputy County Counsel Association and San Luis Obispo Government Attorneys' Union v. PERB*; (*County of San Luis Obispo*) November 8, 2016, California Supreme Court, Case No. S238277, California Court of Appeal, Second Appellate District, Case No. B265012; PERB Decision No. 2427-M [PERB Case No. LA-CO-123-M & LA-CO-124-M]. Issue: Whether the appellate court erred in denying the unions' petition for writ of extraordinary relief, which claimed that the Board erred in Decision No. 2427-M when it affirmed the ALJ's conclusion that the unions violated the MMBA in refusing to bargain over the County's pension cost-sharing proposal; holding that employee contribution levels and distribution under the pension plan were not vested. In addition, the Board found no vested right to the absence of a prevailing wage offset obtained through concessions. On November 8, 2016, a Petition for Review was filed with the Supreme Court. PERB's Answer to Petition for Review was filed November 28, 2016. The Unions' Reply to the Answer was filed on December 8, 2016. On January 11, 2017, the Court denied the Petition for Review. This case is now closed.
10. *Los Angeles Unified School District v. PERB (United Teachers Los Angeles)*, July 24, 2015, Court of Appeal, Second Appellate District, Division Four, Case No. B265626; PERB Decision No. 2438 [PERB Case No. LA-CE-5810]. Issue: Whether the Board erred in Decision No. 2438 when it affirmed the ALJ's findings that UTLA's interest in acquiring the names and work locations of all bargaining unit members reassigned to Educational Service Centers outweighed employees' privacy interests, therefore, Petitioner violated EERA by refusing to disclose this information to UTLA and by unilaterally implementing an opt-out option for bargaining unit members to deny disclosure of necessary and relevant information. LAUSD's Petition for Writ of Extraordinary Relief was filed in the Court of Appeal on July 24, 2015. The Administrative Record was filed on September 17, 2015. LAUSD's Opening Brief was filed on October 22, 2015. PERB filed its Respondent's brief on January 14, 2016. LAUSD's Reply Brief was filed on March 24, 2016. On July 28, 2016, the Court issued its order denying the Petition for Writ of Extraordinary Relief. This case is now closed.
11. *Orange County Water District v. PERB (Orange County Water District Employees Association)*, October 22, 2015, Court of Appeal, Fourth Appellate District, Division Three, Case No. G052725; PERB Decision No. 2454-M [PERB Case No. LA-CE-856-M]. Issue: Whether the Board erred in Decision No. 2454-M by holding that that the District violated the MMBA by refusing to participate in good faith in a properly petitioned-for agency fee election. On October 22, 2015, Petitioner filed a Petition for Extraordinary



Relief in the Fourth Appellate District. The Administrative Record was filed on December 8, 2015. Petitioner's Opening Brief and Request for Judicial Notice was filed on March 8, 2016. On March 25, 2016, the Court filed an order stating that the motion for judicial notice would be decided in conjunction with the Petition for Writ of Review. PERB's filed its Respondent's Brief on April 12, 2016. Real Party in Interest Orange County Water District Employees Association filed their Respondent's Brief on April 26, 2016. The District filed its Reply Brief on July 7, 2016. On June 14, 2016, the Court issued a "writ of review". Oral Argument was held on November 18, 2016. On February 1, 2017, the Court denied the petition. This case is now closed.

12. *PERB v. Alliance College-Ready Public Charter Schools, et al. (United Teachers Los Angeles)*, October 23, 2015, Los Angeles Sup. Ct. Case No. BC 598881; IR Request No. 686 [PERB Case Nos. LA-CE-6025, LA-CE-6027, LA-CE-6061, LA-CE-6073]. Issue: At the ex parte hearing, the court held that a Temporary Restraining Order (TRO) and Order to Show Cause (OSC) should issue and place certain limitations on Alliance's conduct pending a decision on PERB's Complaint for Injunctive Relief. The court also required that Alliance provide notice of the Order to its certificated employees. On October 23, 2015, PERB filed its Complaint for Injunctive Relief and supporting papers against Alliance College-Ready Public Charter Schools, and its individual schools. On October 27, 2015, PERB filed its ex parte papers and served Alliance. Alliance filed papers opposing PERB's Ex Parte Application and UTLA's Motion to Intervene. During oral argument, the court granted UTLA's Request to Intervene over Alliance's objection. The court then granted PERB's Application for a TRO but on terms different from those in PERB's Proposed Order. The court also set a hearing date on the Complaint (Nov. 17) and deadlines for Alliance's Opposition (Nov. 9) and any Replies (Nov. 12). Following oral argument the court ruled verbally on each item and directed the parties to prepare a revised Proposed Order in accordance with the ruling. After counsel for the parties were unable to reach agreement on three provisions in the Proposed Order, they filed a joint Proposed Order with the court that contained alternative language provisions. The court edited and signed the Proposed Order granting the TRO and issuing an OSC on October 29, 2015. On November 6, Alliance filed a notice of demurrer and demurrer on behalf of its parent organizations (Alliance College-Ready Public Schools and Alliance College-Ready Public Schools Facilities Corporation) and the individual schools named in PERB's injunction papers. In its demurrer, Alliance argued that PERB lacks jurisdiction because Alliance's parent organizations and the individual schools are subject to the NLRB's jurisdiction, not PERB's, and are also not "public school employers" under EERA. On November 16, Alliance filed its opposition papers to the PI, along with a request for judicial notice and evidentiary objections. Alliance filed a peremptory challenge under Code of Civil Procedure, section 170.6 as to Judge Gregory Keosian on November 17. On November 18, PERB and UTLA each filed opposition papers to Alliance's demurrer. On November 20, the case was reassigned to a new judge. On

November 23, PERB and UTLA each filed replies to Alliance's opposition to the PI. On November 24, Alliance filed its Reply Brief in support of its demurrer and also withdrew its demurrer only as to its 27 schools. The PI was held on December 3 where the court issued a tentative decision granting in part PERB's Application for a Preliminary Injunction. During oral argument on PERB's Application, the court modified the tentative decision and directed the parties to prepare an order in accordance with his directives. The parties were able to agree on the language of a joint Proposed Order granting the preliminary injunction, and filed their stipulated order on December 9. On December 10, PERB agreed to a 15-day extension for Alliance to file their answers to PERB's complaint. On December 18, PERB granted a second extension making Alliance' answers due on January 19, 2016. On or about December 31, PERB and UTLA agreed to a 60-day extension for the Alliance to file their answers, in exchange for Alliance taking their January 28, 2016 Demurrer hearing off calendar. On January 21, 2016, the parties filed a Joint Status Conference Statement with the Court, in which PERB took the position that Alliance should answer the Complaint and it took the position that no answer should be required and the entire matter should be stayed. The Court subsequently vacated the Status Conference that was scheduled for January 28, 2016, and set a combined Trial Setting Conference and Status Conference for March 22, 2016. On March 21, 2016, counsel for Alliance served PERB with an Answer on behalf of all of Alliance's Charter Schools. Alliance did not serve or file an Answer on behalf of Alliance's non-school entities. At the combined Trial Setting Conference and Status Conference on March 22, 2016, the court issued a verbal order that stayed the case with one exception. The exception to the stay allows either party to file an application or motion to modify, enforce, or dissolve the preliminary injunction. The court also scheduled a Further Status Conference for June 22, 2016. On June 17, 2016, the Parties filed a Joint Status Conference Statement and Stipulated Request to Continue the June 22, 2016, Status Conference. The Status Conference was not removed from the calendar and PERB attended the Status Conference on June 22, 2016. At the Status Conference, Judge Feuer set a Further Status Conference for October 7, 2016. All three parties entered into a stipulation requesting that Hon. Judge Feuer continue the status conference, scheduled for October 7, to January 9, 2017. The order granting continuance of the status conference was signed on October 6, 2016. On December 28, 2016, Alliance filed a Joint Stipulation on behalf of all parties requesting that the status conference scheduled for January 9, 2017, be continued until April 10, 2017. On January 19, 2017, PERB received a Notice of Order re Continuance of Status Conference to April 10, 2017. On April 10, 2017, the parties attended a status conference. The Court set the next CMC for Tuesday August 22, 2017, at 8:30. On June 27, 2017, a PERB Administrative Law Judge issued a Proposed Decision in PERB Case Nos. LA-CE-6061-E and LA-CE-6073-E, UTLA v. Alliance College-Ready Public Charter Schools, et al.

13. *City of San Diego v. PERB (San Diego Municipal Employees Association, Deputy City Attorneys Association, American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, San Diego City Firefighters, Local 145, IAFF, AFL-CIO, Catherine A. Boling, T.J. Zane, Stephen B. Williams)*, January 25, 2016, California Court of Appeal, Fourth Appellate District, Division One, Case No. D069630; PERB Decision No. 2464-M [PERB Case No. LA-CE-746-M, LA-CE-752-M, LA-CE-755-M, LA-CE-758-M].
- Issue: Whether the Board erred in Decision No. 2464-M, when it affirmed the ALJ's findings that the City of San Diego's Mayor and other public officials acted as agents of the City—and not as private citizens—when they used the prestige and authority of their respective elected offices and its resources to pursue pension reform through a ballot initiative, without negotiating with the four exclusive representatives regarding the changes in such benefits. On January 25, 2016, the City of San Diego (City) filed its Petition for Writ of Extraordinary Relief. The Court ordered the Administrative Record to be filed by February 5, 2016. PERB requested a 60-day extension of time to file the Administrative Record, which was subsequently granted to April 5, 2016. On February 2, 2016, PERB filed a motion requesting the dismissal of Boling, Zane and Williams as real parties in interest. On February 4, 2016, the Deputy City Attorneys Association (DCAA) filed a motion to join the dismissal. On February 17, 2016, the City filed an opposition to PERB's motion to dismiss and Boling, Zane & Williams filed a joinder to the City's opposition. On February 19, 2016, PERB filed a reply in support of motion to dismiss. The Administrative Record was filed on April 4, 2016. The City's Opening Brief was filed on May 9, 2016. PERB requested a 45-day extension of time to file the Respondent's Brief and an Application for Leave to File an Oversized Brief. The City filed an Opposition to Application for Extension of Time to File PERB's Brief. Real Parties in Interest Unions (Unions) filed an Application for Leave to File Oversize Brief on May 18, 2016, along with an Application for Extension of time to File Brief of the Unions. On May 23, 2016, the Court granted a 30-day extension of time to file responsive briefs for PERB and the Unions, making their respective briefs due on July 13, 2016, and granted the applications to file oversized briefs. On June 13, 2016, Boling, Zane & Williams filed a Brief in Support of City of San Diego's Petition for Writ of Extraordinary Relief. PERB filed its Respondent's Brief on July 13, 2016, and SDMEA filed its Brief in Opposition to the City's Petition for Writ of Extraordinary Relief. On August 8, 2016, the City filed its Reply Brief. On August 17, 2016, the Court issued a Writ of Review and set a deadline of September 1, 2016, for the parties to request oral argument. On August 24, 2016, PERB and SDMEA filed Requests for Oral Argument. On August 22, 2016, applications to file amicus curiae briefs were filed by: Pacific Legal Foundation, Howard Jarvis Taxpayers Association and National Tax Limitation Committee (in support of the City); San Diego Taxpayers Educational Foundation (in support of the City); League of California Cities (in support of the City); and San Diego Police Officers Association (in support of SDMEA, Deputy City Attorneys Association, AFSCME, AFL-CIO, Local 127

and San Diego City Firefighters, Local 145, IAFF, AFL-CIO). On August 24, 2016, Requests for Oral Argument were filed by PERB and SDMEA, et al. On August 30, 2016, the City and RPI Boling filed Requests for Oral Argument. On October 18, 2016, the Court granted the applications to file amicus curiae briefs filed by San Diego Taxpayers Educational Foundation, the League of California Cities and Pacific Legal foundation, et al. The application to file an amicus curiae brief filed by San Diego Police Officers Association was denied. PERB's Answers to the amicus briefs were filed with the Court on November 7, 2016. Oral Argument was heard on March 17, 2017. On April 11, 2017, the Court issued an opinion annulling PERB's decision, remanding the matter back to PERB with directions to dismiss the complaints and to order any other appropriate relief. On April 25, 2017, PERB filed a Petition for Rehearing. On April 26, 2017, SDMEA filed a Petition for Rehearing. Both petitions for Rehearing were denied on May 1, 2017. On May 19, 2017, PERB and Real Parties in Interest filed their respective Petitions for Review with the California Supreme Court, which were granted on July 26, 2017. (See Item #15.)

14. *Catherine A. Boling, T.J. Zane, Stephen B. Williams v. PERB; (City of San Diego, San Diego Municipal Employees Association, Deputy City Attorneys Association, American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, San Diego City Firefighters, Local 145, IAFF, AFL-CIO)*, January 25, 2016, California Court of Appeal, Fourth Appellate District, Division One, Case No. D069626; PERB Decision No. 2464-M [PERB Case No. LA-CE-746-M, LA-CE-752-M, LA-CE-755-M, LA-CE-758-M]. Issue: Whether the Board erred in Decision No. 2464-M, when it affirmed the ALJ's findings that the City of San Diego's Mayor and other public officials acted as agents of the City—and not as private citizens—when they used the prestige and authority of their respective elected offices and its resources to pursue pension reform through a ballot initiative, without negotiating with the four exclusive representatives regarding the changes in such benefits. On January 25, 2016, Boling et al. filed a Petition for Writ of Extraordinary Relief and Exhibits in Support of Petition for Writ of Extraordinary Relief. The Court ordered the Administrative Record to be filed by February 5, 2016. PERB requested a 60-day extension of time to file the Administrative Record which was granted to April 5, 2016. On January 25, 2016, PERB filed a Motion to Dismiss Petition for Lack of Standing; Memorandum of Points and Authorities in Support Thereof; and Declaration of Wendi L. Ross. On February 4, 2016, DCAA filed a joinder to PERB's motion to dismiss. On February 16, 2016, Petitioners filed their opposition to motion to dismiss. On February 17, 2016, the City filed a joinder to petitioner's opposition. On February 17, 2016, PERB filed a reply in support of motion to dismiss. The Administrative Record was filed on April 4, 2016. Boling et al. filed their Opening Brief on May 9, 2016. Boling's Opening Brief was filed on May 9, 2016. On May 12, 2016, PERB requested a 45-day extension of time to file Respondent's Brief. Boling filed a Motion for Judicial Notice and for Leave to Produce Additional Evidence; Declaration

of Alena Shamos; and Proposed Order in Support of Opposition to Application for Extension to File Respondent's Brief. On May 19, 2016, PERB filed a Reply in Support of Application for Extension of Time and Opposition to Motion for Judicial Notice and for Leave to Produce Additional Evidence. The RPIs (Unions) filed an Application for Extension of time to File Brief of the Unions. On May 20, 2016, Boling et al. filed an Opposition to the Application for Extension to File Brief by the Unions. On May 23, 2016, the Court granted a 30-day extension of time to file responsive briefs of PERB and the Unions, and denied Boling et al.'s request for judicial notice and for leave to produce additional evidence. On June 13, 2016, the City filed a Joinder to Boling's Opening Brief. On July 12, 2016, PERB filed its Respondent's Brief and Request for Judicial Notice; Declaration of Joseph W. Eckhart, and a [Proposed] Order. SDMEA filed its Brief in Opposition to Petitioners' Petition for Writ of Extraordinary Relief. On August 8, 2016, Boling's Reply Brief was filed. On August 17, 2016, the Court issued an order issuing a Writ of Review. On August 24, 2016, both PERB and SDMEA filed Requests for Oral Argument. On August 31, 2016, the Petitioner filed its Request for Oral Argument. Oral Argument was heard on March 17, 2017. On April 11, 2017, the Court issued an opinion annulling PERB's decision, remanding the matter back to PERB with directions to dismiss the complaints and to order any other appropriate relief. On April 25, 2017, PERB filed a Petition for Rehearing. On April 26, 2017, SDMEA filed a Petition for Rehearing. Both petitions for Rehearing were denied on May 1, 2017. On May 19, 2017, PERB and Real Parties in Interest filed their respective Petitions for Review with the California Supreme Court, which were granted on July 26, 2017. (See Item #15.)

15. *City of San Diego v. PERB; San Diego Municipal Employees Association, Deputy City Attorneys Association, American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, San Diego City Firefighters, Local 145, IAFF, AFL-CIO, Catherine A. Boling, T.J. Zane, Stephen B. Williams, consolidated with Catherine A. Boling, T.J. Zane, Stephen B. Williams v. PERB; City of San Diego, San Diego Municipal Employees Association, Deputy City Attorneys Association, American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, San Diego City Firefighters, Local 145, IAFF, AFL-CIO*, May 19, 2017, Supreme Court Case No. S242034; California Court of Appeal, Fourth Appellate District, Division One, Case Nos. D069626/D069630; PERB Decision No. 2464-M [PERB Case No. LA-CE-746-M, LA-CE-752-M, LA-CE-755-M, LA-CE-758-M]. Issue: (1) When a final decision of PERB under the MMBA is challenged in the Court of Appeal, what standard of review applies to the Board's interpretation of the applicable statutes and its findings of fact? (2) Is a public agency's duty to "meet and confer" under the MMBA limited to situations in which the agency's governing body proposes to take formal action affecting employee wages, hours, or other terms and conditions of employment? On May 19, 2017, Boling et al. filed a Petition for Review to contest the Fourth Appellate District's denial of their request for attorneys' fees. On May 22, 2017, PERB and the Unions filed their respective Petitions for Review

asking the California Supreme Court to overturn the decision issued by the Fourth Appellate District. The Court assigned all three petitions the same case number. On June 8, 2017, PERB filed its Answer to the Boling Petition for Review. As to PERB's Petition for Review, the Boling Group filed their Answer on June 8, 2017, and the City filed its Answer on June 9, 2017. PERB and the Unions filed their respective Replies to Boling and the City's Answers on June 16, 2017. As to the Boling Group's Petition for Review, the Boling Group filed their Reply to PERB's Answer on June 16, 2017. On July 26, 2017, the Court granted PERB's Petition for Review, as well as the Petition for Review filed by the Unions. The Petition for Review by Boling was placed in abeyance pending the outcome of PERB and the Unions' petitions. PERB's Opening Brief was due on August 25, 2017, but filed a request for an extension of time to file its Opening Brief on September 8, 2017. The Court granted the request. On August 1, 2017, PERB filed a Certificate of Interested Parties or Persons.

16. *United Teachers Los Angeles v. PERB (Kennon B. Raines, et al.)*, March 30, 2016, California Court of Appeal, Second Appellate District, Case No. B271267; PERB Decision No. 2475 [PERB Case No. LA-CO-1394]. Issue: Whether the Board erred in concluding that UTLA had breached its duty of fair representation by negotiating a side letter of agreement with terms unfavorable to certain employees, without giving those employees sufficient notice of, or participation in, the negotiations. Whether the Board erred in applying the "relation back" doctrine to allow additional charging parties to join the case. A Petition for Writ of Extraordinary Relief was filed in the Second District Court of Appeal on March 30, 2016. PERB filed administrative record on June 10, 2016. UTLA's Opening Brief was filed on July 15, 2016. PERB's Responsive Brief was filed on August 18, 2016. On August 23, 2016, a Stipulation was filed with the Court to extend the time for thirty-six (36) days to file the Appellant's Reply Brief upon the filing of the final Respondent's Briefs. On September 23, 2016, Real Parties in Interest, Kennon B. Raines, et al., filed their Responsive Brief. The Appellant filed its Reply Brief on October 18, 2016. On February 2, 2017, the Court denied the Petition for Writ of Extraordinary Relief. The matter is now closed.
17. *PERB v. County of Butte; (Public Employees Union Local 1 and Teamsters Local 137)*, April 29, 2016, Butte County Superior Court, Case No. 16CV00564; IR No. 697 [PERB Case No. SA-CE-939-M]. Issues: Whether the County violated its local rule section 10.6, and therefore the MMBA, by accepting and processing decertification petitions for its General Bargaining Unit and Social Services Bargaining Unit. This IR Request was granted in part on April 26, 2016. On April 29, 2016, PERB served the parties with ex parte documents that were filed in the Butte County Superior Court on Monday, May 2, 2016. The ex parte hearing was held on Monday, May 2, 2016, at which time the Judge granted the TRO. On May 16, 2016, the Teamsters filed an Opposition to Application for Preliminary Injunction. On May 16, 2016, the County also filed its Opposition to



Preliminary Injunction. On May 18, 2016, PERB filed its Reply to the County and The Teamsters' Opposition to Request for Preliminary Injunction. PEU Local 1 also filed a Reply to the County and Teamsters' Opposition to Preliminary Injunction. The Preliminary injunction Hearing was held on May 20, 2016, at which time the Judge granted the Preliminary Injunction. On May 31, 2016, the Teamsters filed an Answer to Unverified Complaint. On June 7, 2016, Teamsters filed an Opposition to UPEC Local 792's Motion to Intervene and Memorandum of Points and Authorities in Support of Opposition to Motion to Intervene. On June 10, 2016, UPEC Local 792 filed a Reply to the Teamsters' Opposition to UPEC's Motion to Intervene and Memorandum of Points and Authorities in Support of Reply. At the September 2, 2016 Case Management Conference, PERB requested that the Preliminary Injunction be dissolved and the Complaint be dismissed in response to the Teamsters' withdrawal of its original decertification petition. The Court granted PERB's oral motion, with no objection from other parties. On September 21, 2016, PERB filed a Proposed Order signed by each party dissolving the preliminary injunction, dismissing the complaint, and taking the November 4, 2016 Case Management Conference off-calendar. On September 29, 2016, the Court signed the Order Dismissing Complaint and Dissolving Preliminary Injunction. The case is now closed.

18. *In re: Academy of Personalized Learning, Inc.*, April 20, 2016, US Bankruptcy Court, Eastern District of California, Sacramento Division, Case No. 15-28060-D11; [PERB Case Nos. SA-CE-2791, SA-CE-2792, SA-CE-2804, SA-CE-2816]. Issue: Whether proceedings before PERB constitute police and regulatory power actions that are exempt from the automatic stay normally applicable once a debtor files for bankruptcy. On February 25, 2016, the Academy of Personalized Learning (APL) filed a motion in the bankruptcy court for the Eastern District of California, seeking a contempt order against the Academy of Personalized Learning Educator's Association (APLEA) for its alleged violation of the automatic stay. On April 5, 2016, APLEA then filed a Motion for Relief from the Automatic Stay and to Annul the Automatic Stay. The court then ordered additional briefing from the parties on the competing briefs, and invited PERB to submit its own brief. On April 20, 2016, PERB filed the following documents: Supplemental Brief by PERB Regarding Application of the Automatic Stay and Declaration by J. Felix De La Torre in Support of Brief by PERB Regarding Application of the Automatic Stay to Its Proceedings along with Exhibits. APL filed an Opposition to APLEA's Motion for Relief from the Automatic Stay and to Annul the Automatic Stay on April 22, 2016. That same day, APLEA filed a Supplemental Opposition to Motion to Enforce Automatic Stay and for Contempt for Violation of Automatic Stay. On May 2, 2016, the Bankruptcy Court issued its tentative rulings on the APL's motion to enforce the automatic stay and for contempt and APLEA's competing motion for relief from and annulment of the automatic stay. The Court tentatively denied APL's motion and tentatively granted APLEA's motion. The court did not reach the issue of whether the PERB proceedings are

exempt from the automatic stay under §364(b)(4). Instead he decided to grant stay relief and annulment due to APL's delay in seeking a Bankruptcy Court determination while continuing to litigate before the PERB ALJ. The court stated that APL's actions suggest "inappropriate gamesmanship" which has amounted to a waste of everyone's resources. The Court also found that the potential injunctive obligations that APL may have arising out of the PERB complaints are likely non-dischargeable and that the PERB may be better equipped to resolve disputes as to the amount of any monetary claims. On May 4, 2016, the court heard oral argument and the affirmed its tentative ruling as the final ruling. On May 12, 2016, the Judge granted APLEA and CTA's Motion for Relief from the Automatic Stay and to Annul the Automatic Stay. On July 27, 2016, the Court issued a Notice of Entry of Order of Dismissal after finding that APL inappropriately used the bankruptcy court to avoid a union organizing campaign. This case is now closed.

19. *PERB v. Bellflower Unified School District (CSEA Chapter 32)*, April 5, 2016, Los Angeles County Superior Court, Case No. BS161585; PERB Decision Nos. 2385 & 2455 [PERB Case Nos. LA-CE-5508 and LA-CE-5784]. Issue: PERB instituted court action to enforce orders issued by the Board in PERB Decision Nos. 2385 and 2455. On April 5, 2016, PERB served Bellflower USD with a Petition for Writ of Mandate and Summons. On April 7, 2016, the Court set a trial setting conference for July 12, 2016. On May 16, 2016, Bellflower USD filed a Notice of Demurrer and Demurrer to Verified Petition for Writ of Mandate and the Memorandum of Points and Authorities. The trial setting conference was moved to August 30, 2016. The opposition to the District's demurrer is due August 17, 2016 and the demurrer hearing will be held on August 30, 2016. On August 17, 2016, PERB's Opposition to demurrer was filed with the Superior Court. The hearing on the District's demurrer, and a trial setting conference was held on August 30, 2016, where the Court denied the demurrer. At the trial setting conference, the Court set a briefing schedule on PERB's writ; set a status conference for October 27, 2016, to address any disputes by the parties regarding the certified record; and set an April 18, 2017 hearing on PERB's writ. On October 26, 2016, the parties filed a Joint Status Report and Joint Request to Vacate Status Conference; Order. On October 26, 2016, the Status conference scheduled for October 27, 2016, was removed from the Court's calendar. On November 7, 2016, PERB received Notices of Deposition for Yaron Partovi, Mirna Solis, Ellen Wu and "Person Most Knowledgeable." On December 21, 2016, Notices of and Motions to Quash and for a Protective Order were filed. On December 29, 2016, the parties filed a joint request to stay the trial date and briefing schedule pending the resolution of the motions. The joint request was granted on January 5, 2017, and the Court set a Trial Re-Setting Conference on March 28, 2017. On January 10, 2017, Respondent submitted to PERB a Request for Production of Documents, and Special Interrogatories. On January 12, 2017, Respondent submitted to PERB Notices of Taking Depositions of Ronald Pearson and J. Felix De La Torre, and Request to Produce Documents at Deposition. On February 9, 2017, the parties submitted a Joint Request to

Consolidate Law and Motion Hearings Scheduled for March 28, 2017, and April 20, 2017. The Order granting the request was signed on February 9, 2017. The Trial Re-Setting Conference and hearings on the motions are scheduled for April 20, 2017. On March 24, 2017, PERB filed its brief in support of its motion to quash and motions for protective order to prohibit the District's discovery requests. On April 20, 2017, the Court granted PERB's motion to quash deposition notices, and two motions for protective orders for depositions and written discovery that were propounded by the District. The court set the hearing on PERB's writ for enforcement of PERB's orders for December 7, 2017.

20. *PERB v. Service Employees International Union Local 1021 (County of San Joaquin)* July 5, 2016, San Joaquin County Superior Court, Case No. STK-CV-UMC-2016-6497; IR Request No. 701 [PERB Case No. SA-CO-133-M]. Issue: Whether essential employees should be enjoined from striking. The IR was granted in part on July 4, 2016. On July 5, 2016, PERB served the parties with ex parte documents being filed in the San Joaquin County Superior Court. The ex parte hearing was held on July 6, 2016, at which time the Judge granted the TRO. On July 12, 2016, there was a hearing on the County's motion to intervene, and the County was directed to file an amended complaint. On July 12, 2016, the County filed a request with the Court for a preliminary injunction seeking to include additional Juvenile Detention Officers (JDOs) in the injunction. On July 13, 2016, SEIU filed its Opposition to the County's ex parte application. On July 18, 2016, SEIU filed its opposition to the County's request for injunctive relief. On July 20, 2016, PERB filed its reply brief in support of the preliminary injunction. On the same date, the County filed its reply to SEIU's Opposition to the County's request for preliminary injunction, as well as a notice of motion and motion to quash subpoenas, and memorandum of points and authorities in support. On July 22, 2016, a hearing was held on PERB's request for preliminary injunction. The Court granted the preliminary injunction with a duration of 90 days or until successor MOUs were ratified. A hearing was set for October 20, 2016, regarding the status of the preliminary injunction. The parties signed a stipulation extending the injunction by 90 days, which the Court signed on September 19, 2016. Upon the settlement of their successor MOUs, the parties withdrew all charges. A Request for Dismissal was subsequently submitted to the Court on January 5, 2017. This matter is now closed.
21. *Shahla Mazdeh & Asad Abrahamian v. Superior Court of CA, Riverside, et al.*, June 24, 2016, US District Court Case No. 15cv1475-MMA(BLM) [PERB Case Nos. LA-CE-5702, LA-CE-5780, LA-CO-1557, LA-CE-5635, LA-CE-5785, LA-CO-1559]. Issue: Whether PERB violated the Civil Rights Act of 1991, the Fair Labor Standards Act (FLSA), the Age Discrimination in Employment Act (ADEA), and the Racketeer Influenced and Corrupt Organizations Act (RICO). In particular, plaintiffs allege that PERB violated these federal laws when Board agents conspired to dismiss their unfair practice charges, an Administrative Law Judge (ALJ) denied a request for a continuance, and another ALJ

issued an unfavorable decision. Mazdeh and Abrahamian filed an Amended Complaint and Summons with the United States District Court, Southern District of California, on June 24, 2016. PERB was served on July 1, 2016. PERB filed a Notice of Motion and Motion to Dismiss Defendant Public Employment Relations Board and its Memorandum of Points and Authorities on July 21, 2016. The court stated that it would rule on PERB's motion by September 19, 2016. On August 8, 2016, The Court issued its Order and Judgment dismissing Mazdeh and Abrahamian's First Amended Complaint with prejudice. The case is now closed.

22. *Earl Mykles v. PERB (Service Employees International Union Local 1000)*, June 27, 2016, California Court of Appeal, Third Appellate District, Case No. C082326 [PERB Case No. SA-CO-480-S]. Issue: Did PERB err in *Service Employees International Union, Local 1000* (2016) PERB Decision No. 2483-S, when it determined that Earl Mykles' unfair practice charge had been untimely filed. Mykles filed a "Writ of Extraordinary Relief" with the California Court of Appeal, Third Appellate District, on June 27, 2016. On July 7, 2016, PERB filed a Motion to Dismiss the Writ of Extraordinary Relief and an Application for an Extension of Time to File the Certified Administrative Record. On July 7, 2016, the Court granted PERB's Application for an Extension of Time to File the Certified Administrative Record. On July 13, 2016, SEIU Local 1000 filed a Notice of Joinder to PERB's Motion to Dismiss. On July 22, 2016, Mykles filed an Opposition to PERB's Motion to Dismiss and SEIU's Joinder. On July 28, 2016, the Court granted PERB's Motion to Dismiss, and dismissed the Petition for Writ of Review. On September 1, 2016, Mykles filed a Petition for Review with the California Supreme Court, which was subsequently denied.
23. *Earl Mykles v. PERB; Service Employees International Union Local 1000*, September 1, 2016, Supreme Court Case No. S236979; California Court of Appeal, Third Appellate District, Case No. C082326 [PERB Case No. SA-CO-480-S]. Issue: Did the Third District Court of Appeal err when it dismissed Mykles' Writ of Extraordinary Relief seeking to challenge PERB Decision No. 2483-S? On September 1, 2016, Mykles filed a Petition for Review with the Supreme Court. On September 21, 2016, both PERB and Real Party in Interest SEIU Local 1000 filed their Answers to the Petition for Review. Mykles' Reply to the Answer was filed on October 4, 2016. On October 19, 2016, the Supreme Court denied the Petition for Review. This matter is now closed.
24. *Ivette Rivera v. PERB (EBMUD, AFSCME Local 444)*, June 22, 2016, Alameda County Superior Court, Case No. RG16813608; PERB Decision Nos. 2472-M and 2470-M [PERB Case Nos. SF-CO-349-M, SF-CO-338-M, SF-CE-1208-M]. Issue: Plaintiff alleges that in dismissing the unfair practice charges, PERB violated a constitutional right, exceeded a specific grant of authority, or erroneously construed a statute. On April 28, 2016, Rivera filed a Verified Petition for Writ of Mandamus, Declaratory Relief and

Violations of the California Constitution. PERB was not officially served until June 22, 2016. A Case Management Conference was held on June 23, 2016. On July 21, 2016, PERB filed a Demurrer. A hearing on the Demurrer was set for August 17, 2016, but the court continued the hearing to September 9, 2016. A Case Management Conference is also set for September 8, 2016. On September 8, 2016, the Court continued the Case Management Conference to October 27, 2016. The Court overruled PERB's demurrer on September 14, 2016. On October 6, 2016, PERB filed with the Court its Answer to the Verified Petition for Writ of Mandamus. During the October 27th Case Management Conference, the court continued the Case Management Conference to February 9, 2017. On February 9, 2017, the court continued the Case Management Conference to March 30, 2017. On March 29, 2017, PERB, EBMUD, and Rivera filed a joint Stipulation of Parties Regarding Consolidation and Scheduling, and a Proposed Order regarding consolidation and scheduling. On April 3, 2017, the Court issued an order scheduling a hearing on the merits of the writ for January 18, 2018. PERB filed the Administrative Record on June 19, 2017. Rivera's opening brief is due by October 20, 2017. PERB and Real Party in Interest, AFSCME Local 444, must file their opposition briefs by December 4, 2017. Rivera's reply brief is due by January 3, 2018. Also on April 3, 2017, the Court ordered that this case be consolidated with *Ivette Rivera v. PERB*, Case No. RG16843374.

25. *Ivette Rivera v. PERB; East Bay MUD, AFSCME Local 444, December 22, 2016*, Alameda County Case No. RG16843374 [PERB Case No. SF-CE-1227-M]. Issue: Whether the Court should reverse the Board's decision in Case No. 2501-M dismissing Rivera's unfair practice charge for failure to state a prima facie case? Plaintiff's Petition for Writ of Mandate was filed with the Court on December 22, 2017, and served on PERB January 17, 2017. PERB filed its Answer to the petition on February 14, 2017. At the March 21, 2017, Case Management Conference, the court directed the parties to meet and confer on a briefing schedule. PERB, Rivera, and EBMUD reached a stipulation, which was filed with the Court on March 30, 2017. On the same day, the Court issued its Notice of Hearing to inform the parties that the case is set for hearing on January 18, 2018. Rivera's opening brief is due by October 20, 2017. PERB and Real Party in Interest, AFSCME Local 444, must file their opposition briefs by December 4, 2017. Rivera's reply brief is due by January 3, 2018. On April 3, 2017, the Court ordered that this case be consolidated with *Ivette Rivera v. PERB*, Case No. RG16813608. PERB filed the Administrative Record on June 19, 2017.
26. *City of Escondido v. PERB; Escondido City Employees Association*, June 10, 2016, California Court of Appeal, Fourth Appellate District, Division One, Case No. D070462; PERB Decision No. 2311a-M [PERB Case No. LA-CE-618-M]. Issue: Whether PERB erred in PERB Decision No. 2311a-M by finding that the City violated the MMBA by unilaterally transferring work performed by code enforcement officers to non-bargaining unit employees. The City filed a Petition for Writ of Review on June 10, 2016. PERB

was granted a 30-day extension of time to July 20, 2016, to file the Administrative Record. The Administrative Record was filed with the Court on July 20, 2016. The City's Opening Brief was filed August 24, 2016. On September 21, 2016, a Joint Stipulation and Agreement to an Extension of Time to File Briefs was submitted to the Court, and approved by the Court. On October 11, 2016, PERB filed the Respondent's Brief. On October 12, 2016, RPI Escondido City Employees Association filed their Responsive Brief. The City's Reply Brief was filed on October 31, 2016. On November 14, 2016, the Court issued an order finding that summary denial of the Petition for Writ of Extraordinary Relief is not warranted, and the Court gave a deadline of November 29, 2016, for requests for oral argument. Both PERB and the City of Escondido submitted their Requests for Oral Argument on November 17, 2016. RPI Escondido City Employees Association filed their Request for Oral Argument on November 22, 2016. Oral Argument was heard on February 14, 2017. On March 8, 2017, the Court of Appeal issued an unpublished decision reversing the Board's decision. The City then filed a request for publication on March 20, 2017, which was the Court denied on March 21, 2017. This matter is now closed.

27. *Los Angeles Unified School District v. PERB; United Teachers Los Angeles, August 8, 2016*, Supreme Court Case No. S236448, California Court of Appeal, Second Appellate District, Division Four, Case No. B265626; PERB Decision No. 2438 [PERB Case No. LA-CE-5810]. Issue: Whether the Board erred in Decision No. 2438 when it affirmed the ALJ's findings that since UTLA's interest in acquiring the names and work locations of all bargaining unit members reassigned to Educational Service Centers outweighed employees' privacy interests, LAUSD violated EERA by refusing to disclose this information to UTLA and by unilaterally implementing an opt-out option for bargaining unit members to deny disclosure of necessary and relevant information? On August 8, 2016, LAUSD filed its Petition for Review with the Supreme Court. On August 26, 2016, PERB filed its Answer to the Petition for Review. On August 30, 2016, RPI UTLA filed its Answer to the Petition for Review. On September 6, 2016, LAUSD filed its Reply to Answers to Petition for Review. On October 12, 2016, the California Supreme Court denied the Petition for Review. This case is now closed.
28. *Fresno County Superior Court v. PERB; SEIU Local 521*, March 28, 2017, California Court of Appeal, Fifth Appellate District, Case No. F075363; PERB Decision No. 2517-C [PERB Case No. SA-CE-14-C]. Issue: Whether the Board clearly erred in Decision No. 2517-C, holding that the Court violated the Trial Court Act by interfering with employee rights? Fresno County Superior Court (FCSC) filed a Petition [incorrectly named] for Extraordinary Relief on March 28, 2017. The Appellate Court issued its Notice to file the Administrative Record on March 28, 2017, due April 7, 2017. On March 29, 2017, an Application for Extension of Time to file the Administrative Record by 35 days was requested. The request was granted for 25 days. On May 2, 2017, PERB



filed the Administrative Record. FCSC's Opening Brief was filed on June 6, 2017. PERB's Respondent's Brief was filed on July 11, 2017. FCSC filed its Reply Brief on August 14, 2017. The court has not scheduled oral argument.

29. *Patricia Woods v. Public Employment Relations Board et al.*; April 14, 2017, US District Court, Eastern District of California, Case No. 2:17-cv-793; PERB Decision No. 2136 [PERB Case No. SA-CE-1640-S]. Issue: Whether PERB, Wendi Ross, Eileen Potter and the California Department of Corrections and Rehabilitation violated Ms. Woods' federal and state rights under: (1) 42 U.S.C. sections 1981 (Discrimination in contracting); (2) 42 U.S.C. § 1985 (conspiracy to violate civil rights, and § 1986 (failure to prevent conspiracy); (3) breach the contract; and (4) violation of the Dills Act, based on alleged undisclosed discriminatory conduct by PERB and its employees in adjudicating her unfair practice case that resulted in Board Decision No. 2136? PERB received a copy of the following documents on April 27, 2017: Civil Rights Complaint; Plaintiff's Motion for an Expedited Status Conference Hearing, Settlement Conference and Appointment of a Special Court Master. On May 5, 2017, PERB notified Ms. Woods that her service of process was defective, as she improperly mailed the complaint to PERB, and failed to serve a copy of the Summons. On July 5, 2017, PERB was properly served with the documents. On July 21, 2017, PERB filed a Notice of Motion and Motion to Dismiss. On July 31, 2017, PERB received Woods' first motion for an extension of time to file a response to the Motion to Dismiss. The court continued the hearing on Defendants' motions to dismiss to October 11, 2017.
30. *PERB v. Service Employees International Union, Local 1000; State of California (CalHR)*, November 29, 2016, Sacramento County Superior Court, Case No. 34-2016-00204088 [PERB Case No. SA-CO-495-S]. Issue: Whether SEIU 1000's one-day strike of 95,000 employees, scheduled for December 5, 2016, was unlawful as including 5,700 essential employees? PERB filed a Complaint for Injunctive Relief and ex parte papers requesting a Temporary Restraining Order (TRO) on December 1, 2016. The ex parte hearing for the TRO was conducted on December 2, but continued to December 13, 2016. On December 3, 2016, SEIU 1000 and CalHR reached a tentative agreement for a successor MOU. On December 5, 2016, the parties provided status updates which provided that SEIU 1000 had withdrawn its strike notice on December 2, 2016, that SEIU 1000 was informing its members that the strike was cancelled, and that CalHR had not received any reports of strike activity. On December 6, 2016, the Board rescinded its determination partially granting CalHR's request for injunctive relief, deeming CalHR's request moot, and denying it without prejudice. On December 6, 2016, the Office of General Counsel notified the parties of the Board's determination and took the ex parte hearing off calendar. The complaint was subsequently dismissed as moot. This case is now closed.

31. *PERB v. Service Employees International Union, Local 521*; Superior Court of Santa Cruz County, November 18, 2016, Santa Cruz County Superior Court, Case No. 16CV03056 [PERB Case No. SF-CO-5-C]. Issue: Injunctive relief regarding an “essential employee” strike by employees of the Santa Cruz County Superior Court. On November 21, 2016, PERB filed its Complaint for Injunctive Relief arising from IR Request No. 711. Later the same day, it appeared ex parte. Counsel for the Santa Cruz Court also appeared; counsel for SEIU did not. PERB sought a TRO and OSC regarding a preliminary injunction applying to seven employees covered by a stipulation between SEIU and the Santa Cruz Court. Judge Bean signed PERB’s proposed order for a TRO and OSC regarding a preliminary injunction, setting a hearing on the preliminary injunction for December 12, 2016. Prior to the hearing date, the parties settled their contract dispute. As a consequence, on December 5, 2016, PERB submitted a Request for Dismissal, which was signed the same day. This case is now closed.
32. *PERB v. Teamsters Local 1010; Regents of the University of California*, December 23, 2016, Los Angeles County Case No. BC644746 [PERB Case No. LA-CO-548-H]. Issue: Whether the Teamsters strike was unlawful, since it included some essential Public Safety Dispatchers? On December 23, 2016, PERB filed an Ex Parte Application for a TRO. On December 29, 2016, the Teamsters filed an Opposition. On January 5, 2017, the Regents filed an Ex Parte Application for Leave to Intervene, a Complaint in Intervention, Memorandum of Points and Authorities in Support of Complaint in Intervention, Declaration of T. Yeung in Support of Complaint in intervention, and a Request for Judicial Notice in Support of Complaint in Intervention. On January 5, 2017, the court signed the Order Granting TRO and OSC. On January 5, 2017, the Court signed the order granting the Regent’s application for leave to intervene. On January 20, 2017, the Regents filed a Partial Opposition to the Application for Preliminary Injunction, supporting documentation, and a Request to Present Oral Testimony. The Teamsters filed a Reply to the Partial Opposition, other supporting documentation, and an Opposition to Regents’ Request for Oral Testimony. On January 27, 2017, the parties attended a preliminary injunction hearing before Judge Hogue. Following oral argument, Judge Hogue issued an Order Granting Preliminary Injunction. On March 17, 2017, the Court scheduled a Case Management Conference and OSC Hearing for April 10, 2017. On March 28, 2017, the UC filed a Joint Case Management Statement apprising the Court of the recently reached CBA between UC – Teamsters that, upon ratification, would moot the instant case. The UC also filed a Joint Request to Continue the Case Management Conference and Extend for 90-days the Preliminary Injunction enjoining 21.5 essential employees from striking. Also on March 28, in response to the Court’s OSC, PERB re-filed with the Court the Proofs of Service of Summons and Complaint demonstrating personal service by PERB on UC and Teamsters. On March 30, 2017, the Court issued an Order continuing the Case Management Conference and OSC Hearing Regarding Proof of Service until July 10, 2017. In the same Order, the Court extended the Preliminary Injunction until July 26,

2017, or until the parties' contract dispute is finally resolved, whichever occurs first, or until further Order of the Court. In or about March or April of 2017, the UC and Teamsters reached a successor Memorandum of Understanding. On June 23, 2017, PERB filed a Request for Dismissal of the Complaint with the Court. On or about June 23, 2017, the UC also filed a Request for Dismissal with the Court. The Superior Court dismissed the case on July 6, 2017 and the case is now closed at the Superior Court. PERB filed a Notice of Entry of Dismissal with the Superior Court on August 2, 2017. This matter is now closed.

33. *California Department of Human Resources v. PERB; SEIU, Local 1000*, January 3, 2017, Sacramento County Sup. Ct. Case No. 34-2016-00204088; IR Request No. 713 [PERB Case No. SA-CO-495-S]. Issue: Whether the Board, after considering CalHR's request for injunctive relief relating to SEIU Local 1000's strike noticed for December 5, 2016, erred by deciding to seek an injunction applying only to those employees shown to be "essential," rather than applying to the entire strike. CalHR initiated this case as a cross-petition/cross-complaint in PERB's case against SEIU Local 1000, with causes of action for writ of mandate and declaratory relief. Both PERB and SEIU filed timely demurrers. On May 30, 2017, the court issued a minute order sustaining the demurrers to both causes of action. The court granted CalHR leave to amend the declaratory relief cause of action by June 30, 2017. CalHR filed its First Amended Cross-Complaint for Declaratory Relief on June 30, 2017. On July 15, 2017, all parties submitted Case Management Statements for a July 20, 2017 Case Management Conference. On July 18, 2017, the Court issued a tentative ruling referring the case to the Trial Setting Process. All counsel were to confer and agree upon trial and settlement conference dates. On July 28, 2017, PERB filed a demurrer to the June 30, 2017, Amended Cross-Complaint. On August 1, 2017, SEIU also filed a Notice of Demurrer and Demurrer, as well as a Memo of Points and Authorities in support of the Demurrer, and a Request for Judicial Notice. On August 21, 2017, CalHR sought to file a Second Amended Cross-Complaint in lieu of an Opposition to PERB and SEIU's recent demurrers. On August 22, the Court rejected this new amended complaint because CalHR had not been granted leave to amend. On August 24 and 25 respectively, PERB and SEIU filed information with the Court indicating their belief that it had properly rejected the Second Amended Cross-Complaint, and declaring their intention to appear for the demurrer hearing scheduled for September 1, 2017. On August 31, 2017, the Court agreed to grant CalHR leave to amend its complaint, taking the demurrer hearing off calendar.

34. *PERB v. United Public Employees of California, Local 792; County of Shasta*, January 30, 2017, Shasta County Sup. Ct. Case No. 186652; IR Request No. 718 [PERB Case No. SA-CO-135-M]. Issue: Whether UPEC Local, 792's strike of 1,088 employees beginning January 30 through February 3, 2017, is unlawful as including 40 essential employees? PERB filed Complaint for Injunctive Relief and ex parte papers requesting a

TRO on January 30, 2017. Also on January 30, UPEC notified PERB and the County that it would not oppose the TRO. Ex Parte Hearing for TRO was conducted on January 31 at Shasta Superior Court. At the hearing, the Court granted PERB's request for TRO to enjoin the 40 essential employees from striking, and then scheduled a hearing on the preliminary injunction for February 10, 2017. The parties subsequently stipulated to an order granting the preliminary injunction on the same terms as in the TRO. The Court signed the stipulated order on February 9, 2017. The preliminary injunction expired on May 10, 2017. On May 30, 2017, PERB submitted a Request for Dismissal to the Court in response to the parties' settling their Memorandum of Understanding. On May 30, 2017, the Clerk of the Court entered its dismissal of the complaint. On June 6, 2017, PERB filed its Notice of Entry of Dismissal. The case is now closed.

35. *Los Angeles Unified School District v. PERB; United Teachers Los Angeles*, April 5, 2017, California Court of Appeal, Second Appellate District, Division 8, Case No. B281714; PERB Decision No. 2518 [PERB Case No. LA-CE-5824]. Issue: Whether the Board erred in *Los Angeles Unified School District* (2017) PERB Decision No. 2518 when it affirmed a proposed decision holding that certain subjects are within the scope of representation under EERA? LAUSD filed its Petition for Writ of Extraordinary Relief on April 5, 2017. On April 10, 2017, PERB submitted a request for a 91-day extension of time to file the Administrative Record. On April 13, 2017, the Court granted a 60-day extension of time. The Administrative Record was filed on June 14, 2017, making LAUSD's Opening Brief due on July 19, 2017. On July 13, 2017, a stipulation was filed extending the due date for the Opening Brief to September 1, 2017. LAUSD filed its Opening Brief on September 1, 2017.
36. *PERB v. Oak Valley Hospital District; United Steel Workers, Local TEMSA 12911*, June 5, 2017, Stanislaus County Sup. Ct. Case No. 2025124; IR Request No. 727 [PERB Case No. SA-CE-1008-M]. Issue: Whether Oak Valley Hospital District (OVHD) is required to recognize the United Steel Workers and resume collective bargaining? On June 6, 2017, the Office of the General Counsel appeared ex parte seeking a TRO from the Stanislaus Superior Court. The Court, however, requested supplemental briefing from the parties. PERB and OVHD filed Supplemental Briefs on June 8, 2017. On June 9, 2017, Judge Freeland issued an Order allowing OVHD to submit supplemental opposition papers by June 15, 2017, with PERB's reply due June 21, 2017. OVHD chose not to submit supplemental opposition papers. PERB filed its Reply to Opposition and Proposed Order on June 20, 2017. The OSC hearing was held on June 28, 2017, at 8:30 a.m. in Department 23. The Court granted PERB's request for a preliminary injunction for 150 days.