



PUBLIC EMPLOYMENT RELATIONS BOARD

2015-2016 ANNUAL REPORT

October 15, 2016



EDMUND G. BROWN JR., GOVERNOR

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

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Board Members

ANITA I. MARTINEZ
A. EUGENE HUGUENIN
PRISCILLA S. WINSLOW
ERIC R. BANKS
MARK C. GREGERSEN

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PUBLIC EMPLOYMENT RELATIONS BOARD

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October 15, 2016

Dear Members of the State Legislature and fellow Californians:

On behalf of the Public Employment Relations Board (PERB), we are pleased to submit our 2015-2016 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.

PERB began the 2015-2016 fiscal year with a full complement of five members. We ended the year with only three members after the retirement of Anita I. Martinez, Chair, and the expiration of the term of A. Eugene Huguenin, Board Member. Both served PERB with great distinction and brought to PERB a combined experience in labor relations of approximately 80 years.

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 2015-2016 fiscal year include:

- 652 unfair practice charged filed
- 116 representations petitions filed
- 129 mediation requests filed pursuant to the Educational Employment Relations Act (EERA), Higher Education Employer-Employee Relations Act (HEERA), and Ralph C. Dills Act
- 22 EERA/HEERA factfinding requests approved
- 54 Meyers-Milias-Brown Act (MMBA) factfinding requests filed
- 132 unfair practice charges withdrawn/settled prior to formal hearing
- 266 days of unfair practice informal settlement conferences conducted by regional attorneys
- 87 formal hearings completed by administrative law judges
- 76 proposed decisions issued by administrative law judges
- 552 cases filed with State Mediation and Conciliation Service
- 70 decisions issued and 18 injunctive relief requests decided by the Board

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It is worth noting that the number of proposed decisions issued by PERB's Division of Administrative Law is the highest in recent history. We are also proud to report that this year the Office of the General Counsel has successfully defended every case decided by the Board from which parties have appealed to the courts of appeal.

We invite you to explore the Report for more detailed information about PERB's 2015-2016 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 or contact PERB at (916) 323-8000 for any further information.

Respectfully submitted,

Priscilla S. Winslow
Board Member

Eric R. Banks
Board Member

Mark C. Gregersen
Board Member

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 eight 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
- (8) In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA) (Government Code § 110000 et seq.).

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 2015-2016 decisions is included in the Appendices, beginning at page 30.

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 2015-2016 fiscal year, the Legislature did not pass any bills that affect PERB or amend any of the labor relations statutes under its jurisdiction.

Rulemaking

The Board did not consider any rulemaking proposals in the 2015-2016 fiscal year.

III. CASE DISPOSITIONS

Unfair Practice Charge Processing

The number of unfair practice charges filed with PERB has increased as a result of various statutory expansions to PERB's jurisdiction over the last two decades. In 2015-2016, 652 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 2015-2016, 132 cases (about 22 percent of 599 completed charge investigations) were withdrawn, many through informal resolution by the parties. PERB staff also conducted 266 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 2015-2016, the Division had eight ALJs conducting formal hearings and writing proposed decisions. The Division's production of proposed decisions issued in fiscal year 2015-2016 (76 proposed decisions) was greater than fiscal year 2014-2015 (70 proposed decisions) and the same as fiscal years 2012-2013 and 2013-2014 (76 proposed decisions), when the Division achieved an all-time high in its issuance of proposed decisions. In fiscal year 2015-2016, the 76 proposed decisions were issued in an average of 135 days per decision.

For the 2015-2016 fiscal year, the number of proposed decisions issued (76 proposed decisions) was less than the number of formal hearings completed (87 formal hearings). Additionally, the number of pending proposed decisions to write at the end of the fiscal year was higher than fiscal year 2014-2015 (42 proposed decisions to write) to 2015-2016 (44 proposed decisions to write). This increase in the number of pending decisions to write indicates that the net backlog of cases has incrementally increased.

The total number of cases assigned in fiscal year 2015-2016 was 183 cases. Of the 183 cases, the ALJs closed a total of 182 cases and 45 cases were held in abeyance pending resolution or other reasons. Last fiscal year (2014-2015), 209 cases were assigned to the ALJs which was an all-time Division high. The current decrease in case assignments from the previous fiscal year was most likely caused by the number of attorney vacancies in the Office of the General Counsel, as well as the increase in litigation assignments to that office.

Over the last four fiscal years, the regional distribution of the caseload has been focused primarily in the PERB Glendale office. Approximately 50 percent of all PERB unfair practice formal hearings have been held in the Glendale office, and this trend is expected to continue.

Board Decisions

Proposed decisions issued by Board agents may be appealed to the Board itself. During the 2015-2016 fiscal year, the Board issued 70 decisions as compared to 74 during the 2014-2015 fiscal year. The Board also considered 18 requests for injunctive relief as compared to 19 during the 2014-2015 fiscal year. A summary of injunctive relief requests filed compared to prior years is included in the Appendices at page 27.

Litigation

PERB's litigation projects¹ increased in fiscal year 2015-2016. Specifically, PERB attorneys completed 121 litigation-related assignments (compared to 82 litigation projects last fiscal year). In addition, the number of active litigation cases increased in fiscal year 2015-2016 to its highest in several years. A total of 37 litigation cases, including new and continuing matters, were handled during the 2015-2016 fiscal year (compared to 32 last year, and 21 the year before that). A summary of these cases is included in the Appendices, beginning at page 64.

Representation Activity

For fiscal year 2015-2016, 116 new representation petitions were filed, which is a slight increase from the 110 petitions filed in the prior fiscal year. The fiscal year 2015-2016 total includes 41 recognition petitions, 1 petition for certification, 6 severance requests, 30 decertification petitions, 8 requests for amendment of certification, and 30 unit modification petitions. In addition to the 266 days of informal conference in unfair practice charge cases, PERB attorneys held 12 days of informal conference and 18 days of formal hearing in representation matters.

¹ PERB's court litigation primarily involves: (1) injunctive relief requests to immediately stop unlawful actions at the superior court level; (2) defending decisions of the Board at the appellate level; and (3) defending the Board's jurisdiction in all courts, 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 remained the same, with 11 elections conducted in fiscal year 2015-2016, compared to 11 elections in the prior fiscal year. The 11 elections conducted by PERB included 9 decertification elections, 1 organizational security-rescission election, and 1 amendment of certification election. More than 1,594 employees were eligible to participate in these elections, in bargaining units ranging in size from 7 to 482 employees.

Mediation/Factfinding/Arbitration

During the 2015-2016 fiscal year, PERB received 129 mediation requests under EERA/HEERA/Dills. The number of mediation requests under EERA/HEERA increased from the prior year (120 such requests were filed in 2014-2015). Of those requests, 100 were approved for mediation. Subsequently, 22 of those mediation cases were approved for factfinding.

During this same period of time, 54 factfinding requests were filed under the MMBA. Of those requests, 44 were approved. The number of factfinding requests under the MMBA increased from the prior year (41 such requests were filed in 2014-2015).

Compliance

PERB staff commenced compliance proceedings regarding 27 unfair practice cases, in which a final decision resulted in a finding of a violation of the applicable statute. This is a slight decrease in activity over the prior year (33 compliance proceedings were initiated in 2014-2015).

State Mediation and Conciliation Service Division

SMCS was fully staffed in fiscal year 2015-2016. The fiscal year caseload was low, as the public sector economic recovery continued to be reflected in labor contract negotiations in most, but not all, parts of the state.

SMCS received a total of 552 new cases between July 1, 2015 and June 30, 2016, and closed 684. The closed cases include:

Contract Impasses

- 91 EERA/HEERA
- 104 MMBA
- 4 Transit
- 8 State Trial Courts
- 1 Los Angeles City/County

Grievances and Disciplinary Appeals

- 205 EERA/HEERA
- 105 MMBA
- 9 Transit
- 3 State Trial Courts
- 21 City/County
- 37 Private Sector

Other

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

IV. APPENDICES

Introduction of Board Members, Legal Advisors and Managers

Board Members

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.

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

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

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

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

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

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

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

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

Eric R. Banks was appointed to the Board by Governor Edmund G. Brown Jr. in February 2013, and reappointed in February 2015. 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 2016.

Mark C. Gregersen was appointed to the Board by Governor Edmund G. Brown on February 6, 2015. 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.

Mr. Gregersen's term expires December 2019.

Legal Advisors

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

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

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

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

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

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

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

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

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.

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 was the Chief Counsel from 2012 to 2015, Assistant Chief Counsel from 2010 to 2012, and a Senior Staff Attorney from 2008 to 2010. From 2000 to 2008, Mr. De La Torre was a shareholder and partner at 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 as a staff attorney 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 University of California (U.C.) Davis Extension in the Labor Management Certificate Program. Mr. De La Torre is a 1999 graduate of U.C. 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 enactment of Senate Bill 1036, which enacted the relevant part of the In-Home Supportive Service Employer-Employee Relations Act (IHSSEERA). The IHSSEERA is within the jurisdiction of PERB to administer and enforce, with respect to both unfair practices and representation matters. The IHSSEERA initially covers 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.

In fiscal year 2015-16, more than 2.5 million public sector employees and their 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: 796,000 work for California's public education system from pre-kindergarten through and including the community college level; 240,000 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 663,000 work for California's cities, counties, special districts; with the remainder working in the trial courts, and the Los Angeles County Metropolitan Transportation Authority.

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.

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 IHSSEERA has occurred. If the charge fails to state a prima facie case, the Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is given time to either amend or withdraw the charge. If the charge is not amended or withdrawn, 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) 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 2015-2016 representation activity is on page 28.

Appeals Office

The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. The office maintains case files, issues decisions rendered, and 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 preparing 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 with a subpoena issued by PERB;
- seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- defending the jurisdiction of the Board, submitting motions, pleadings, and amicus curiae briefs, and appearing in cases in which the Board has a special interest.

A summary of PERB's 2015-2016 litigation activity begins at page 64.

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. This is a non-adjudicatory function within PERB that performs mediation and related work

specific to the promotion of harmonious labor-management relations in both the public and private sectors of the state.

The processes are generally very informal, with efforts directed toward compromise and/or collaboration in achieving settlements. The core functions of SMCS involve work that is performed at no charge to the parties, including:

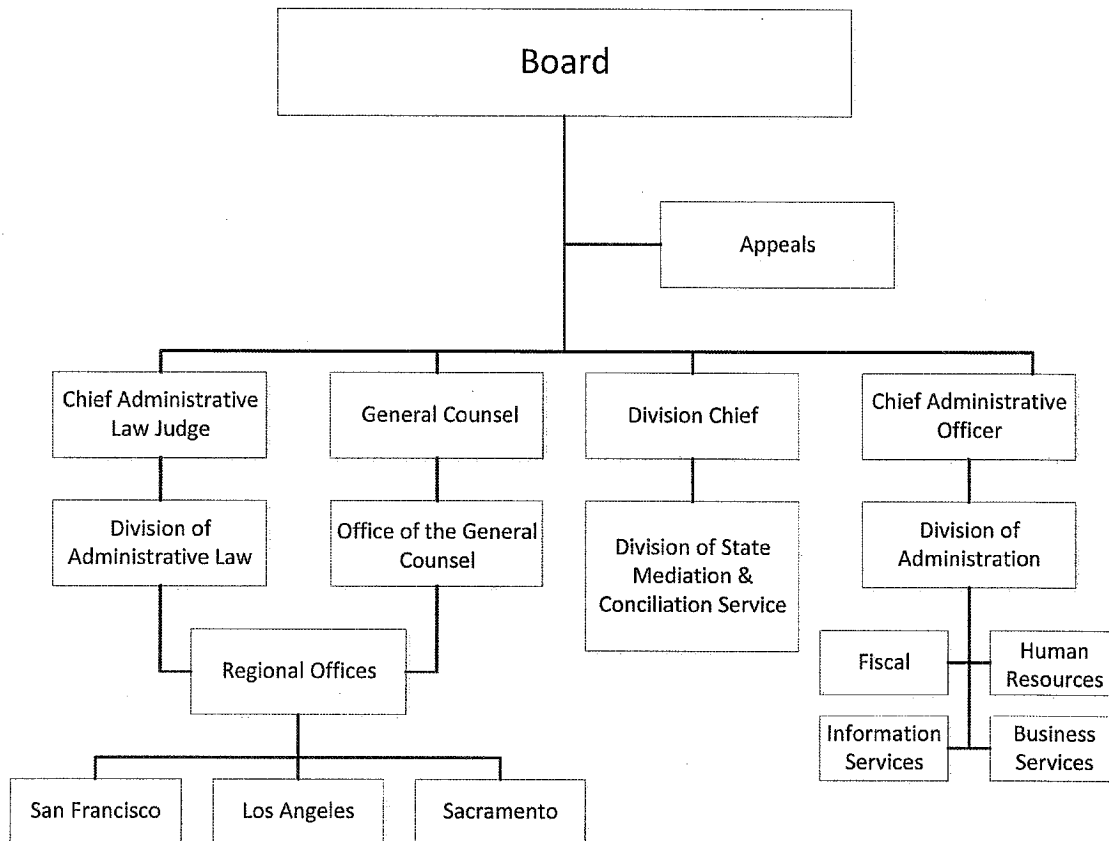
- Mediation to end strikes and other severe job actions;
- Mediation of initial and successor collective bargaining agreement disputes;
- Mediation of grievances arising from alleged violations of collective bargaining agreements and other local rules;
- Mediation of discipline appeals;
- Supervision 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:

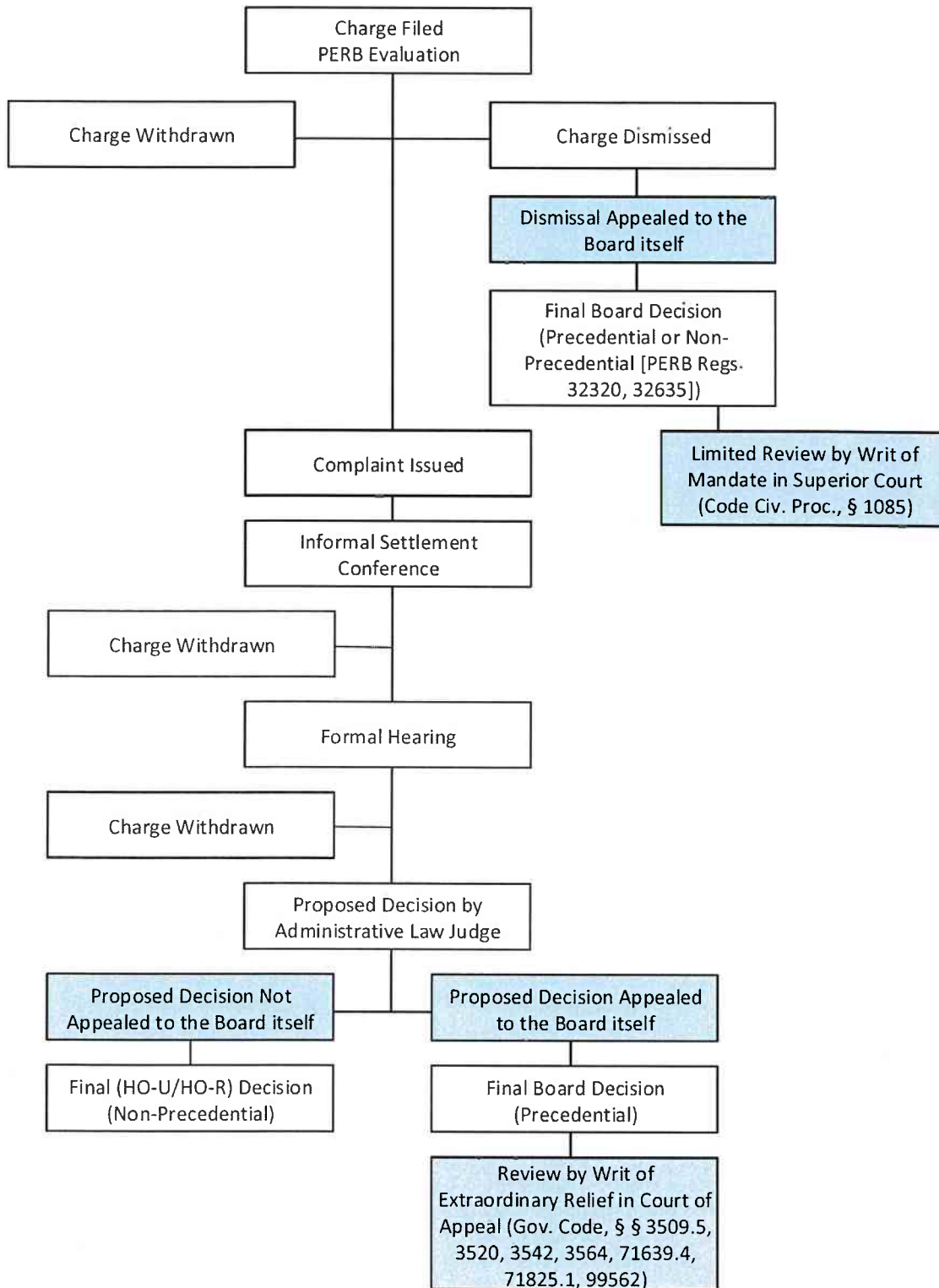
- Training and facilitation in interest-based bargaining, implementing effective joint labor-management committees, and resolving conflict in the workplace; and
- Assistance with internal union/employee organization elections or processes, or similar activities for labor or management that are not joint endeavors.

Public Employment Relations Board

Organizational Chart



Unfair Practice Charge Flow Chart



UNFAIR PRACTICE CHARGE (UPC) STATISTICS

I. 2015-2016 by Region

Region	Total
Sacramento	181
San Francisco	197
Los Angeles	274
Total	652

II. 2015-2016 by Act

Act	Total
Dills Act	53
EERA	236
HEERA	75
MMBA	260
TEERA	3
Trial Court Act	9
Court Interpreter Act	4
IHSSEERA	2
Non-Jurisdictional	10
Total	652

III. Prior Year Workload Comparison: Charges Filed

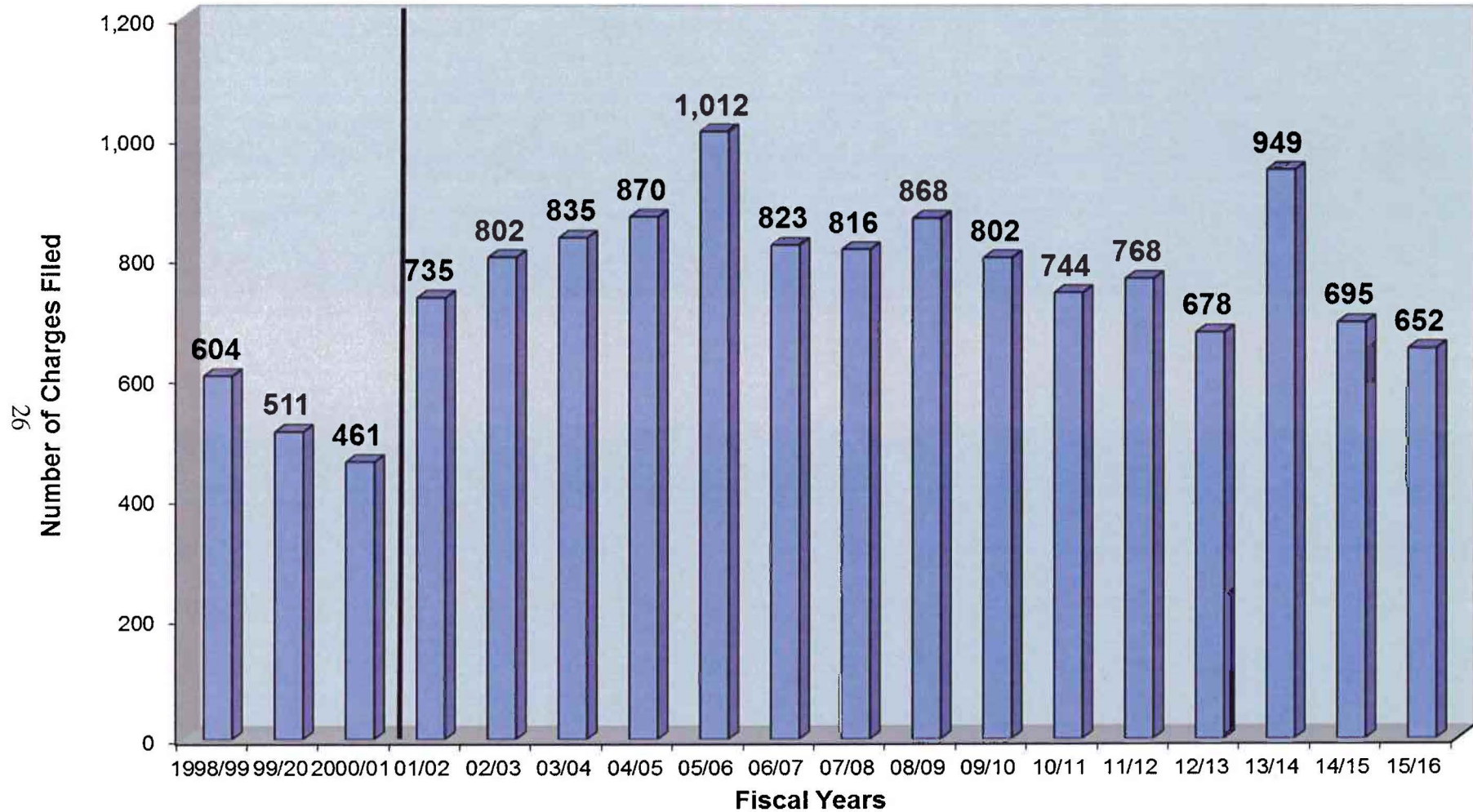
	2012/2013	2013/2014	2014/2015	2015/2016	4-Year Average
Total	678	949*	695	652	744

IV. Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	42	22	71	135
San Francisco	48	74	84	206
Los Angeles	76	64	127	267
Total	82	160	282	608

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

Unfair Practice Charge Filings



Notes: The vertical line illustrates when MMBA jurisdiction took effect (July 1, 2001). In fiscal year 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	5-Year Average
Total	21	17	25	19	18	20

2015-2016 REPRESENTATION CASE ACTIVITY

I. Case Filings

Case Type	Filed
Request for Recognition	41
Severance	6
Petition for Certification	1
Decertification	30
Amended Certification	8
Unit Modification	30
Organizational Security	0
Arbitration	0
Mediation Requests (EERA/HEERA/Dills)	129
Factfinding Requests (EERA/HEERA)	22
Factfinding Requests (MMBA)	54
Factfinding Approved (MMBA)	44
Compliance	27
Totals	392

II. Prior Year Workload Comparison: Cases Filed

	2012-2013	2013-2014	2014-2015	2015-2016	4-Year Average
Fiscal Year	347	350	361	392	363

III. Elections Conducted

Amendment of Certification	1
Decertification	9
Fair Share Fee Reinstatement	0
Fair Share Fee/Agency Fee Rescission	1
Representation	2
Severance	0
Unit Modification	0
Total	13

Elections Conducted: 7/1/2015 to 6/30/2016

<i>Case No.</i>	<i>Employer</i>	<i>Unit Type</i>	<i>Winner</i>	<i>Unit Size</i>
<i>Amendment of Certification</i>		<i>Subtotal:</i>	<i>1</i>	
LA-AC-00078-M	CAMBRIA COMM HEALTHCARE DIST.	EMTs & Paramedics	SEIU Local 620	9
<i>Decertification</i>		<i>Subtotal:</i>	<i>9</i>	
SF-DP-00314-E	FAIRFIELD-SUISUN USD	Classified Supervisors	No Representation	14
SF-DP-00316-C	SANTA CLARA COUNTY SUPERIOR COURT	General	Superior Court Professional Employees	422
LA-DP-00407-M	BUENA VISTA WATER STORAGE DIST.	General	UFCW 8 - Golden State	13
LA-DP-00406-E	IMAGINE SCHOOLS AT IMPERIAL VALLEY	Wall Certificated	Imagine Schools at Imperial Valley	38
LA-DP-00415-E	POWAY USD	Operations, Support Services Les	Poway School Employees Association	482
SF-DP-00320-E	BRENTWOOD UNION SCHOOL DISTRICT	Operations, Support Services	California School Employees Association	72
SF-DP-00317-E	FOOTHILL-DE ANZA CCD	Security	Foothill-De Anza POA	7
LA-DP-00414-E	EL CAMINO REAL ALLIANCE	Wall Certificated	UTLA	151
LA-DP-00421-E	LOST HILLS UnESD	Wall Classified		29
<i>Organizational Security - Approval</i>		<i>Subtotal:</i>	<i>1</i>	
LA-OS-00220-M	EAST VALLEY WATER DISTRICT	General	Yes to Rescind Agency Shop Provision	43
<i>Representation</i>		<i>Subtotal:</i>	<i>1</i>	
SF-RR-00965-H	UNIVERSITY OF CALIFORNIA	UC Davis Skilled Crafts	No Rep	314

Total Elections: 12

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2311a-M*	<i>Escondido City Employees Association v. City of Escondido</i>	Charging party alleged that the City violated the MMBA by interfering with the Association president's ability to communicate Association matters during the work day, by discriminating against the Association president by laying him off, and by unilaterally transferring bargaining unit work to non-bargaining unit employees without meeting and conferring over the decision.	Precedential Decision—*JUDICIAL APPEAL PENDING. The Board affirmed the proposed decision with the sole exception of the remedy. The proposed decision found that the City violated the MMBA by unilaterally transferring bargaining unit work and by interfering with the Association president's ability to communicate Association matters. The proposed decision dismissed the claim that the City discriminated against the Association president by laying him off. The Board revised the proposed remedy to award lost dues to the Association.
2442-M	<i>United Public Employees, Local 1 v. County of Sacramento</i>	The complaint alleged that the County violated the MMBA by unilaterally changing the union release time compensation policy when it denied union release time compensation to a member of the bargaining team during successor negotiations.	Precedential Decision. The ALJ concluded that the respondent had engaged in the unfair practice as alleged. 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.
2443-M	<i>Milpitas Supervisors' Association v. City of Milpitas</i>	Exclusive representative of City employees excepted to proposed decision in which the ALJ had concluded that, by contract and by inaction, representative had waived its right to negotiate over the City's decision to outsource work based on labor costs. City filed cross-exception to ALJ's conclusion that decision to outsource was within scope of representation and subject to meet and confer obligation.	Precedential Decision. The Board affirmed in relevant part the ALJ's conclusions that the City's decision to outsource was negotiable because it was based primarily on labor costs and the ALJ's conclusion that the representative had contractually waived its right to meet and confer over the decision. Although not all outsourcing decisions are negotiable, where City acknowledged that its

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			budget deficit was the primary if not sole reason for deciding to outsource bargaining unit work, Board affirmed ALJ's conclusion that the City's decision to outsource was within the scope of representation. However, the Board found that the exclusive representative contractually waived its right to bargain over the decision to outsource bargaining unit work where its agreement provided that the City could implement layoffs and outsource bargaining unit work with 120 days' notice in the event the City lost redevelopment agency funding. Because there was no dispute that the City lost redevelopment agency funding, under the contractual language, it was entitled to layoff and outsource work following 120 days' notice.
2444	<i>Pasadena City College Faculty Association v. Pasadena Area Community College District</i>	A community college district excepted to a proposed decision which found that the District had violated its duty to meet and confer when its governing board unilaterally decided to change the academic year from a semester to trimester basis.	Precedential Decision. The Board affirmed the proposed decision's finding of liability. Because it is essential to fulfilling the District's educational mission, the decision to change the student or academic calendar is a managerial prerogative beyond the scope of bargaining. However, because the District could not change from a semester to trimester system without also affecting employee hours, it was not authorized to change the student calendar without first giving notice and completing negotiations with the employees' representative.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2445	<i>Santa Maria Joint Union High School District v. Santa Maria Joint Union High School District Faculty Association</i>	The charge alleged that the Association violated EERA by causing or attempting to cause the District to retaliate against an employee.	Precedential Decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case, holding that the filing of grievances and a PERB charge did not constitute an “attempt” by the Association to cause the District to commit an unfair practice.
2446	<i>Asad Abrahamian v. Coachella Valley Teachers Association</i>	Charging party alleged that the Association violated EERA by retaliating against him by denying him Group Legal Services benefits because he filed an unfair practice charge.	Precedential Decision. The Board affirmed the proposed decision because the appeal failed to comply with PERB regulations governing appeals.
2447	<i>Carmen Fritsch-Garcia v. Los Angeles Unified School District</i>	Charging party alleged that she was laid off from employment by the District in retaliation for her pursuit of an unfair practice charge against the District.	Precedential Decision. The Board affirmed the proposed decision because the appeal failed to comply with PERB regulations governing appeals.
2448	<i>Ramiro Tizcareno v. Hueneme Elementary School District</i>	The charge alleged that the District violated EERA and numerous other statutes and regulations by: (1) refusing to return Tizcareno to work after being placed on a 39-month re-employment list and after his physicians certified his ability to perform the work; (2) maintaining in his personnel file documents from the Superior Court, presumably relating to his divorce; and (3) declaring in September 2014, that he was no longer an employee of the District.	Non-Precedential Decision. The Board affirmed the dismissal of the charge for failure to state a prima facie case and failure to comply with PERB Regulation 32635(a) in Tizcareno’s appeal.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2449	<i>Lynette Lucas v. Rio School District</i>	Charging party alleged that the District issued Lucas a notice of non-reelection in retaliation for speech activity protected under EERA.	Precedential Decision. The Board affirmed the proposed decision. The appeal addressed only charging party's inability to present witnesses, the ALJ's failure to remove an individual from the hearing, and the ALJ's failure to provide a cautionary statement to District employees called as witnesses. The Board found no merit to any of charging party's exceptions.
2450	<i>Jefferey L. Norman v. Jurupa Unified School District</i>	The complaints allege respectively that the District violated EERA by discriminating and retaliating against Norman because of his protected activity when it denied him personal necessity leave (Case No. LA-CE-5593) and terminated his employment (Case No. LA-CE-5744).	Precedential Decision. The Board affirmed the dismissal of the charge because (in Case No. LA-CE-5593) he failed to establish a prima facie case of retaliation and (in Case No. LA-CE-5744) the District had proven its defense, i.e., that it both had and acted because of an alternative non-discriminatory reason in terminating Norman's employment, and because Norman's exceptions were rejected in their entirety for failure to comply with PERB Regulation 32300.
2450a	<i>Jefferey L. Norman v. Jurupa Unified School District</i>	Charging party requested reconsideration of PERB Decision No. 2450.	Precedential Decision. The Board denied request for reconsideration because it simply reiterates the same facts and arguments made on appeal of the original proposed decision, and failed to show any prejudicial error of fact in the Board's decision. Request also denied because it asserted various errors of law, which may not serve as grounds for reconsideration.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2451-M	<i>Sheehan Gillis v. City of Oakland (Oakland Fire Department)</i>	Charging party alleged that the City violated his <i>Weingarten</i> rights by denying his requests for union representation in several meetings with his supervisors.	Non-Precedential Decision. The Board upheld the dismissal of the unfair practice charge for lack of jurisdiction and as partly untimely. The Board further found that charging party's filings and exceptions did not comply with PERB regulations.
2452	<i>Eric Moberg v. Hartnell Community College</i>	The charge alleged that the a community college had discriminated against a former employee by terminating his employment and refusing or delaying payment for hours worked because of his protected conduct, including threatening to file a PERB charge. It also alleged that the employer's human resources official had interfered with protected rights by insisting that she, rather than the charging party, would choose his representative in an investigative meeting. The Office of the General Counsel dismissed the charge and charging party appealed the dismissal.	Precedential Decision. The Board reversed the dismissal of an unfair practice charge where the Office of the General Counsel had not analyzed an interference allegation involving coercive statements allegedly made by a high-ranking human resources official and where the charging party's allegations stated a prima facie case of discrimination.
2453	<i>Eric M. Moberg v. Cabrillo Community College District</i>	Charging party alleged that the District placed him on paid leave, directed him to refrain from attending his assigned classes or from performing additional work while he was on leave, and withdrew his tentative teaching assignment for a semester in retaliation for filing PERB charges.	Precedential Decision. The Board reversed the dismissal of an adjunct college faculty instructor's retaliation claim against the employer-community college district. PERB found that the District was aware of the faculty instructor's protected activity when it placed him on paid leave and withdrew his tentative teaching assignment and remanded the matter for issuance of a complaint.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2454-M*	<i>Orange County Water District Employees Association v. Orange County Water District</i>	The complaint alleged that the District violated the MMBA by refusing to participate in an agency shop election.	<p>Precedential Decision—*JUDICIAL APPEAL PENDING. The ALJ concluded that the District had engaged in the unfair practice as alleged.</p> <p>The Board affirmed, holding that a modified agency shop arrangement that applied only to future hires, not current employees, fell within the definition of agency shop; and that the District's refusal to participate in a properly petitioned-for agency shop election was unlawful.</p>
2455	<i>California School Employees Association & its Chapter 32 v. Bellflower Unified School District</i>	The complaint alleged that the District violated EERA by changing a policy regarding holiday leave without notice and opportunity to bargain and by failing and refusing to timely respond to requests for information.	<p>Precedential Decision. The ALJ concluded that the District had engaged in the unfair practices as alleged.</p> <p>The Board affirmed, holding that the contract language was clear and unambiguous and did not discriminate between employees who worked in an assignment classified as 12-month and those who did not; and that the District's failure to pay holiday leave to those who did not work in an assignment classified as 12-month constituted an unlawful unilateral change.</p>

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2456-S	<i>Anthony Frank Dorado v. State of California (Department of Forestry and Fire Protection)</i>	The charge alleged that the State violated the Dills Act when it rescinded a job offer.	Non-Precedential Decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel for failure to state a prima facie case, holding that Dorado's primary claim that the State violated constitutional merit system principles when it rescinded a job offer fell outside of PERB's jurisdiction.
2457-H	<i>David Phoenix v. American Federation of State, County and Municipal Employees, Local 3299</i>	The charge alleged that AFSCME violated the duty of fair representation under HEERA by failing to advise Phoenix of the procedures for filing a whistleblower/retaliation complaint under the employer's whistleblower protection policy.	Non-Precedential Decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel, holding that as a threshold matter the charge was untimely and there was no "good faith" or "equitable" exception to the six month statute of limitations.
2458	<i>Pamela Jean Lukkarila v. Jurupa Unified School District</i>	The complaint in alleged that the District violated EERA by retaliating against Lukkarila because of her protected activity and interfering with her protected rights by issuing a written communication to employees that criticized employees for filing a group grievance with the District's governing board.	Precedential Decision. The Board affirmed the proposed decision and held that the District violated EERA by threatening Lukkarila with insubordination, a negative observation report and final evaluation, and ordering a consecutive evaluation year in retaliation for seeking union representation and filing grievances. The District also violated EERA by sending an e-mail to all District employees that criticized employees' collective protected activities, thereby interfering with the employees' exercise of rights protected by EERA.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2459	<i>Dave Lukkarila v. Claremont Unified School District</i>	In three separate unfair practice charges later consolidated, Lukkarila alleged that the District violated EERA by retaliating against him for engaging in protected activity and interfering with his protected rights.	Precedential Decision. The Board affirmed the proposed decision. Two of the three exceptions failed to comply with PERB regulations governing appeals. The remaining exception did not challenge any factual findings or legal conclusions made by the ALJ, but introduced a new allegation. With respect to the new allegation, charging party failed to meet the requirements of an unalleged violation.
2460	<i>Jefferey L. Norman v. National Education Association Jurupa</i>	Charging Party alleged that the Association violated EERA by breaching its representational duty.	Non-Precedential Decision. The Office of the General Counsel dismissed the charge because it was untimely filed, charging party lacked standing, and none of the allegations in the charge included any information demonstrating that the Association handled any contract negotiations, grievances, or contract administration in bad faith or in a way that was discriminatory or arbitrary. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2461-M	<i>Service Employees International Union, Local 521 v. County of Tulare</i>	The complaint alleged that the County violated the MMBA by failing to bargain in good faith by insisting upon its initial bargaining proposal throughout negotiations, improperly concluding that the parties were at impasse, and electing not to impose its last, best and final offer (LBFO).	Precedential Decision. The Board affirmed the proposed decision dismissing the complaint and re-affirmed that an employer is not required to impose its LBFO that has not been accepted by the union. The County's conduct did not demonstrate that it failed to bargain in good faith.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2461a-M	<i>Service Employees International Union, Local 521 v. County of Tulare</i>	Service Employees International Union, Local 521 (SEIU) requested reconsideration of the Board's decision in <i>County of Tulare</i> (2015) PERB Decision No. 2461-M, on the basis that a Board member should have recused himself.	Precedential Decision. The Board denied the request for reconsideration because a request for reconsideration is not the appropriate procedural vehicle to move for the recusal of a Board member. The Board also determined that the member was not required to recuse himself due to his past employment as a management consultant where there was no showing that the member had advised the County or had any prior involvement with this case.
2462-C	<i>Gail Natalie Oliver v. Service Employees International Union Local 721</i>	The charge alleged that her exclusive representative had violated its duty of fair representation by acting in a perfunctory fashion or in bad faith when processing a grievance challenging charging party's termination from employment. The Office of the General Counsel dismissed the charge for failure to state a prima facie case.	Precedential Decision. The Board held that it had jurisdiction over the dispute, despite the absence of language in the Trial Court Act providing for a duty of fair representation. Because the duty of fair representation is the quid pro quo for exclusive representation, the absence of duty of fair representation language in the Trial Court Act does not indicate legislative intent to deprive PERB of jurisdiction to consider duty of fair representation cases brought by Trial Court employees. However, the Board affirmed the dismissal because the charging party had failed to allege sufficient facts to demonstrate that her representative had acted arbitrarily, discriminatory or in bad faith in grievance-arbitration proceedings.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2463	<i>Chico Unified Teachers Association v. Chico Unified School District</i>	Charging party alleged that the District violated EERA when it took adverse action against a bargaining unit member because of his exercise of protected rights by assigning him to teach non-welding courses.	Precedential Decision. The Board affirmed the proposed decision dismissing the complaint and underlying unfair practice charge with the exception of finding that the Association failed to prove the requisite additional nexus factor for establishing a prima facie case of retaliation. The Association established that an e-mail message showed at least some animus toward the bargaining unit member. However, the District sufficiently demonstrated that it had a non-discriminatory reason for its actions.
2464-M*	<i>San Diego Municipal Employees Association / Deputy City Attorneys Association of San Diego / American Federation of State, County and Municipal Employees, AFL-CIO, Local 127 / San Diego City Firefighters Local 145 v. City of San Diego</i>	The proposed decision found the City had acted in derogation of its duty to meet and confer under the MMBA when its Mayor and other City officials proposed and supported a citizens initiative to alter employee pension benefits without meeting and conferring with the exclusive representatives of City employees. The City filed exceptions challenging, among other things, the finding that the Mayor had acted in his official capacity as an agent of the City when promoting the citizens' initiative.	Precedential Decision—*JUDICIAL APPEAL PENDING. The Board affirmed the proposed decision's findings and conclusions, including its finding that the Mayor and other City officials were acting as agents of the City when proposing and supporting a citizens' initiative aimed at altering employee pension benefits without meeting and conferring with the representatives of City employees. The Board modified the proposed remedy, holding that it lacked authority to overturn the results of a municipal election but awarded back pay and benefits and other compensatory damages to employees and their representatives.

2015-2016 DECISIONS OF THE BOARD

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2465-S	<i>Service Employees International Union Local 1000 v. State of California (California Correctional Health Care Services)</i>	The complaint alleged that the State violated the Dills Act when it interfered with the right of an employee to be represented by his exclusive representative at a meeting to present and discuss his performance evaluation and a counseling memorandum; and interfered with the corresponding right of the exclusive representative to represent its members.	Precedential Decision. The ALJ concluded that the State did not interfere with employee rights by failing to permit the attendance of a union representative at the performance evaluation meeting, but did interfere with employee rights by issuing an overbroad directive to cease sending e-mails to other employees. The Board affirmed, holding that the State's issuance of an overbroad directive was unlawful.
2466-M	<i>United Public Employees of California, Local 792 v. City of Milpitas</i>	Charging party alleged that the City discriminated against an employee by placing him on administrative leave and failing to move him into a lead position per a promise by a former supervisor.	Non-Precedential Decision. The Board upheld the dismissal of the unfair practice charge on the grounds that it was untimely filed.
2467-M	<i>Public Employees Union Local 1 v. County of Contra Costa</i>	The charge alleged that the County violated the MMBA by unilaterally changing a past practice concerning the calculation of overtime eligibility.	Non-Precedential Decision. The Board affirmed the dismissal of the charge because the alleged facts did not state a prima facie case for unilateral change.
2468-H	<i>David Caines v. AFSCME Local 3299</i>	The charge alleged that the union violated the duty of fair representation under HEERA by abandoning a grievance.	Non-Precedential Decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel, holding that the union's decision not to process a grievance beyond the third step of the grievance procedure did not breach the union's duty of fair representation because the grievance arose at a time when the arbitration provision was not in force.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2469-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 depriving her of her rights, misrepresenting her due process rights, entering into a secret agreement, omitting her comments in the minutes of a meeting, declining to discuss her concerns, refusing to hear her grievance.	Non-Precedential Decision. The Office of the General Counsel dismissed the charge because it failed to state a prima facie case and because charging party lacked standing. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2470-M	<i>Ivette Rivera v. American Federation of State, County and Municipal Employees, Local 444</i>	Charging party alleged that AFSCME violated the MMBA numerous ways including fraudulently claiming that AFSCME was the majority representative in a negotiated MOU, agreeing to eliminate an employee's right to file a grievance, obtaining exclusive recognition for its members through unlawful means, colluding with the employer, and violating charging party's right to petition the government and be free of discrimination in the workplace.	Non-Precedential Decision. The Office of the General Counsel dismissed the charge for failure to state a prima facie case and untimeliness. Finding that the appeal raised no issues warranting further consideration, the Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2471-M	<i>Public Employees Union, Local One v. West County Wastewater District</i>	Charging party alleged that the District violated the MMBA by enforcing its local rule regarding unit modifications to determine that certain classifications should be relocated from one bargaining unit to another bargaining unit, and by unilaterally changing terms and conditions of employment without affording Local One notice and an opportunity to bargain over the impact on employees.	Precedential Decision. Pursuant to the parties' resolution of the underlying dispute, the Board dismissed the unfair practice charge.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2472-M	<i>Ivette Rivera v. American Federation of State, County and Municipal Employees, Local 444</i>	Charging party alleged that AFSCME violated the MMBA and charging party's statutory and constitutional right to free association, free speech, and due process by failing to provide fresh "Hudson" notices to Rivera (an agency fee payer) each time the agency fee rate changed, and by overcharging her the chargeable portion of her agency fees for at least seven years.	Non-Precedential Decision. The Office of the General Counsel dismissed the charge for failure to state a prima facie case and untimeliness. Finding that the appeal raised no issues warranting further consideration, the Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2473-H	<i>California State University Employees Union v. Trustees of the California State University</i>	The Office of the General Counsel dismissed a charge alleging that a higher education employer had unilaterally changed collectively-bargained grievance procedures by allegedly insisting on conducting a grievance meeting without the grievant and the representative present.	Non-Precedential Decision. The Board reversed the dismissal and remanded to the Office of the General Counsel for issuance of a complaint and to determine whether the matter is appropriate for deferral to the parties' collectively-bargained grievance and arbitration procedures.
2474	<i>Dave Lukkarila v. Claremont Faculty Association</i>	Charging party alleged that the Association violated EERA by failing to comply with his multiple requests for detailed financial reports and that such failure interfered with his ability to campaign for an elected position with the Association.	Precedential Decision. The Board affirmed the proposed decision dismissing the allegations that the Association failed to provide financial reports for the years prior to 2012-2013 and that the Association's actions interfered with charging party's ability to campaign for an elected position. The Board reversed the ALJ's finding that, with respect to the financial records for the 2012-2013 fiscal year, the Association's belated compliance rendered charging party's claim as moot.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2475*	<i>Kennon B. Raines et al. v. United Teachers of Los Angeles</i>	The exclusive representative of certificated employees excepted to a proposed decision which found that the representative had violated its duty of fair representation by secretly entering into a side letter to modify the collectively-bargained seniority and priority calling order of substitute teachers without providing affected employees with notice or opportunity to comment before the agreement took effect.	Precedential Decision—*JUDICIAL APPEAL PENDING. The Board affirmed the proposed decision's finding that the representative had violated its duty of fair representation by negotiating changes to substitute teachers' seniority rights without any notice or opportunity to comment and by concealing the existence of the side letter from affected employees. The Board reversed the dismissal of five charging parties for defective service where the representative had actual notice of their charges and knew the substance of their allegations at the outset of the hearing.
2476-M	<i>Santa Clara Public Safety Non-Sworn Employees Association v. City of Santa Clara</i>	The exclusive representative of City employees alleged that the City had bargained in bad faith during successor negotiations and had retaliated against the representative and bargaining unit employees for refusing to agree to concessions demanded in a previous round of negotiations. The representative also alleged that City managers and officials had made coercive statements to employees preceding and during negotiations. By agreement with the ALJ, the case was tried on a stipulated record, as supplemented by declarations and rebuttal declarations concerning the allegations of coercive statements. The proposed decision dismissed all allegations and refused to consider the charging party's declarations on hearsay, reliability and other grounds.	Precedential Decision. The Board reversed the dismissal and remanded for further proceedings on the allegations of coercive employer statements to employees. The Board reasoned that the charging party was blindsided by the agreement brokered by one ALJ to try the case on a stipulated record with declarations which contained disputed material facts and were more appropriately resolved through a formal evidentiary hearing.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2477-M	<i>Service Employees International Union, Local 521 v. County of Madera</i>	The complaint alleged that the County violated the MMBA when it unilaterally changed policy by implementing furloughs; and when it bypassed, derogated and undermined SEIU's authority by sending two memoranda regarding furloughs to bargaining unit employees.	<p>Precedential Decision. The ALJ concluded the County had engaged in some, but not all, of the unfair practices as alleged.</p> <p>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.</p>
2478-M	<i>Orange County Medical & Dental Association v. County of Orange; Orange County Employees Association</i>	The complaint alleged that the County violated the MMBA by denying OCMDA's petition to sever five classifications of professional health care employees from the Healthcare Professional Unit.	<p>Precedential Decision. The Board held that the County violated MMBA section 3507.3 by denying the severance petition, because the employees covered by the petition were all professionals and are entitled to be represented separately from non-professional employees.</p>
2479	<i>David C. Peters v. Los Angeles Unified School District</i>	The complaint alleged that the District violated EERA by retaliating against Peters because of his protected activity.	<p>Precedential Decision. The ALJ concluded that the District did not engage in the unfair practice as alleged.</p> <p>The Board affirmed, holding that even if Peters could establish a prima facie case, the District established its affirmative defense that it would have terminated Peters' employment even in the absence of protected activity.</p>
2480-M	<i>County of Trinity v. United Public Employees of California, Local 792</i>	The charge alleged that the union violated the MMBA by engaging in an unlawful strike.	<p>Precedential Decision. The Board affirmed the dismissal of the charge by the Office of the General Counsel, holding that bargaining impasse was not broken by the union's initial contact with the employer to set up a meeting and that therefore the strike was not unlawful.</p>

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2481-H	<i>Damjan Posedel v. Regents of the University of California (Los Angeles)</i>	A former higher education employee excepted to a proposed decision dismissing the complaint and his unfair practice charge which alleged that his employment had been terminated in retaliation for his protected conduct of litigating a previous PERB charge.	Precedential Decision. Where charging party failed to comply with even the most basic requirements of PERB's regulation governing exceptions, the Board declined to address charging party's exceptions or to overturn the ALJ's credibility determinations; charging party failed to cite to the applicable portion of the record, attempted to introduce evidence outside the record, and merely repeated arguments already adequately addressed by the proposed decision.
2482-M	<i>Sheeneeka Smith-Hazelitt v. Laborers International Union of North America, Local 777</i>	The Office of the General Counsel dismissed for untimeliness a charge alleging that an exclusive representative had violated its duty of fair representation under the MMBA and PERB regulations by failing to enforce its memorandum of understanding with the County of Riverside and/or by failing to assist the charging party in her efforts to obtain an accounting and to collect back pay owed from the County as the result of a previous decision by an arbitrator. The charging party appealed the dismissal.	Non-Precedential Decision. The Board affirmed the dismissal when the charging party's factual allegations demonstrated that she knew further assistance from the representative was unlikely more than six months before she filed the charge.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2483-S	<i>Earl Mykles v. Service Employees International Union, Local 1000</i>	Charging party appealed from dismissal of his unfair practice charge which alleged that an exclusive representative of a bargaining unit of State employees had violated charging party's right to fair representation under the Dills Act. According to the amended charge, the allegations that formed the basis of the alleged violation occurred more than 21 months before the charge was filed.	Non-Precedential Decision. The Board affirmed the dismissal in a non-precedential decision. The six-month statute of limitations runs from discovery of the conduct alleged to constitute an unfair practice, not from discovery of the legal significance of that conduct. The contents of the charge and the appeal demonstrate that the charging party was aware of all the relevant facts when they occurred, but that he filed no charge against his representative based on these facts until approximately 21 months later, well after the six-month limitations period had expired.
2484	<i>California Virtual Academies and California Teachers Association</i>	In this EERA representation matter, the petitioning union sought exclusive recognition of a single bargaining unit of approximately 700 certificated teachers employed by 11 charter schools.	Precedential Decision. The ALJ concluded that the 11 charter schools were a joint employer of the teachers and that a single, statewide bargaining unit was appropriate. The Board concluded that a single, statewide bargaining unit was appropriate under the single employer doctrine, not the joint employer doctrine.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2485	<i>Petaluma Federation of Teachers, Local 1881 v. Petaluma City Elementary School District/Joint Union High School District</i>	The Office of the General Counsel dismissed a charge alleging that a public school employer had violated EERA by: (1) providing the exclusive representative with inaccurate financial information; (2) failing to provide requested information that was necessary and relevant for contract negotiations; (3) conditioning negotiations on an agreement to prohibit bargaining unit employees from observing negotiations; (4) unilaterally changing a past practice of allowing bargaining unit employees to observe negotiations; (5) unilaterally changing employee work hours; (6) interfering with protected rights by prohibiting distribution of union leaflets during the 30 minutes before the start of the school day; and (7) engaging in surface bargaining.	Precedential Decision. The Board reversed the dismissal of allegations that the employer had unreasonably delayed providing necessary and relevant information and that its prohibition against distribution of union literature interfered with protected rights. It affirmed the dismissal of all other allegations.
2486-M	<i>Cindy Lacy v. Service Employees International Union United Healthcare Workers West</i>	A former public employee filed exceptions to a proposed decision which dismissed the complaint and her unfair practice charge which alleged that an exclusive representative had violated its duty of fair representation under the MMBA and PERB regulations by not timely filing and, once filed, not pursuing a grievance challenging the charging party's termination from employment.	Precedential Decision. The Board adopted the dismissal because the charging party had presented no evidence to show that the exclusive representative's interpretation of contract provisions governing probationary release was arbitrary, discriminatory or advanced in bad faith. Even if the representative's interpretation had been incorrect, charging party did not show that any reasonable alternative interpretation of the collective bargaining agreement would alter the representative's honest judgment that a grievance stood little to no chance of success.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2487-M	<i>Ivette Rivera v. East Bay Municipal Utility District</i>	Charging party alleged that the District violated the MMBA numerous ways including posting a memorandum summarizing a section of the Government Code, informing her that the unions own the grievance process, and unlawfully extracting union dues.	Non-Precedential Decision. The Office of the General Counsel dismissed the charge for failure to state a prima facie case, lack of standing and untimeliness. Finding that the appeal raised no issues warranting further consideration, the Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2488-S	<i>William Dean Diederich v. Service Employees International Union Local 1000</i>	Charging party alleged that SEIU violated the Dills Act by breaching its duty of fair representation by entering into a memorandum of understanding containing a geographic pay scale. Charging party further alleged violations of the California Constitution, California Labor Code, and additional Government Code sections.	Non-Precedential Decision. The Office of the General Counsel dismissed the charge because it failed to state a prima facie case and because PERB had limited jurisdiction over charging party's allegations. The Board affirmed the dismissal of the charge and adopted the warning and dismissal letters of the Office of the General Counsel.
2489-H	<i>Debbie Polk v. Teamsters Clerical, Local 2010</i>	The complaint alleged that the union breached its duty of fair representation in handling grievances on behalf of Polk.	Precedential Decision. The Board upheld the dismissal for failure to prosecute. Charging party had not pursued this case with due diligence and her failures to appear for hearing dates and meet other deadlines were without good cause.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2490-M	<i>Service Employees International Union Local 1021 v. County of San Joaquin</i>	Exclusive representative of public employees excepted to a proposed decision which dismissed a complaint and unfair practice charge alleging that a public employer had unilaterally eliminated an established practice of permitting employees with childcare responsibilities to arrive late to work and make up the time during their lunch period.	Precedential Decision. The Board affirmed the dismissal where the charging party failed to prove its prima facie case that the public employer had unilaterally eliminated an established practice of providing flexible schedules for bargaining-unit employees with child care responsibilities, where evidence failed to show that practice was known and condoned by any manager besides a low-level supervisor who admittedly acted outside her authority when approving employee schedule changes.
2491-M	<i>Montebello City Employees Association v. City of Montebello</i>	The exclusive representative of a unit of City employees excepted to a proposed decision in which an administrative law judge had dismissed allegations that the City had unilaterally changed employee classifications by assigning out of class work to two employees.	Precedential Decision. The Board affirmed the proposed decision. Charging party failed to prove its prima facie case of a unilateral change in employee job duties where misclassification affected only two employees in separate departments with no common supervision or policy. Charging party did not establish that two apparently separate breaches of its memorandum of understanding had a generalized effect and continuing impact on terms and conditions of employment where the City denied a grievance on procedural grounds and did not argue that it was authorized by statute, contract or other legal authority to assign duties in contravention of established classifications and memorandum of understanding.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2492-M	<i>Butte County Employees Association Local 1 v. County of Butte</i>	The complaint alleged that the County violated the MMBA by (1) unreasonably enforcing its local rules regarding determinations of appropriate units; (2) unreasonably enforcing its local rule regarding unit modification petitions; (3) ceasing dues and agency fee deductions and remittance thereof to the Association for the employees in a proposed new bargaining unit; (4) withdrawing recognition of BCEA as the exclusive representative of the subject employees and refusing to bargain in good faith with BCEA; and (5) interfering with the rights of employees and the employee organizations when it failed to maintain strict neutrality during a decertification election.	Precedential Decision. The County excepted to the merits of the ALJ's proposed decision, but the County excepted only to the proposed order requiring it, as opposed to its employees, to pay back dues to BCEA. The Board affirmed the ALJ's remedy and held that ordering the County to restore to the union dues improperly withheld was appropriate.
2493-H	<i>Patient & Physician Safety Association v. Regents of the University of California (Irvine)</i>	Charging party alleged that the University violated HEERA by dismissing a physician from his residency program for organizing an employee organization, by dominating and/or interfering with an employee organization seeking to become the exclusive representative, and by consulting with an academic, professional, or staff advisory group on a matter within the scope of representation.	Precedential Decision. The Board affirmed the conclusions reached by the ALJ. The University properly placed the physician on administrative leave and subsequently dismissed him from his residency program because of the employee's unprofessional and threatening behavior as well as his subpar performance. The University did not unlawfully create a faculty or residents committee where those entities did not qualify as "employee organizations" under HEERA. The University also did not unlawfully consult with an academic or professional group where there was no record of any consultation actually taking place.

2015-2016 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2494-M	<i>Davis Professional Firefighters Association, Local 3494 v. City of Davis</i>	The complaint alleged that the City discriminated and retaliated against the Association's president, Robert Weist, and unilaterally changed terms and conditions of employment, by denying his same-day request for vacation leave and issuing him a performance improvement plan.	Precedential Decision. The Board reversed the ALJ's dismissal of the unilateral change allegation concerning the City's issuance of a performance improvement plan (PIP) to Weist, but otherwise affirmed the dismissal of the discrimination and retaliation allegations.
2495	<i>Lisa Marcoe v. Walnut Valley Unified School District</i>	Charging party alleged that she was dismissed from her position as a music teacher in retaliation for her complaining about certain curricular issues.	Precedential Decision. The Board upheld the dismissal because the charge failed to establish employer knowledge of protected activity. But the Board held that charging party's individual complaints about curricular issues was both protected concerted activity and protected self-representation.

2015-2016 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

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

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-429-M	<i>City & County of San Francisco v. Operating Engineers, Local 3</i>	A City and County appealed from an administrative determination that a single-issue dispute involving matters arguably encompassed by a collective bargaining agreement were subject to factfinding under the MMBA.	The Board affirmed the administrative determination and the Board's holding in <i>County of Contra Costa</i> (2014) PERB Order No. Ad-410-M that the plain language of the MMBA and its legislative history indicate that the Legislature intended to make MMBA factfinding available for any "difference" over any matter within the scope of representation, including single-issue disputes, so long as the employee organization's request is timely and the dispute is not subject to one of the statutory exceptions.
Ad-430-M	<i>Morongo Basin Transit Authority v. Amalgamated Transit Union Local 1704</i>	Morongo Basin Transit Authority (MBTA) appealed from an administrative determination granting Amalgamated Transit Union Local 1704's (ATU) representation petition for recognition and certified it as the exclusive representative. The MBTA appealed, contending that the Board agent erred by ignoring evidence of revocation of authorization cards and purported evidence that the proof of support was tainted by misconduct. MBTA urges PERB to reverse the certification and either conduct an election or an investigation to determine the validity of ATU's proof of support filed with its petition.	PERB affirmed the Office of the General Counsel's certification of ATU as the exclusive representative of the petitioned-for unit, holding that the employer failed to comply with PERB regulations, that employee signatures on a petition saying they did not support the union was not tantamount to revocations of prior authorizations, and that absent an agreement between the employer and union, there is no provision in the MMBA for revocation of authorization signatures. Employer may not assert doubt of continued employee support as a basis for refusing to recognize union that has presented sufficient proof of support for recognition as exclusive representative.

2015-2016 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

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

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-431	<i>Imagine Schools at Imperial Valley and Group of Employees and Imagine Schools Teachers Association</i>	The employer appealed an administrative determination granting the request of Imagine Schools Teachers Association (Association) for a stay of further processing of a petition filed by a group of employees seeking to decertify the Association as exclusive representative of a unit of certificated employees of Imagine Schools.	The Board adopted the administrative determination's granting a stay of the petition as a result of alleged unlawful anti-union campaigning by the employer in connection with the petition.
Ad-432-H	<i>California State University Employees Union v. Trustees of the California State University</i>	A higher education employer appealed from an administrative determination rejecting as untimely filed the employer's opposition to an appeal in unfair practice proceedings.	The Board denied the appeal and request to accept the late-filed opposition papers, finding the employer had not provided sufficient factual detail to establish either a reasonable and credible explanation for its untimely filing or that it had made a conscientious effort to comply with the deadline by requesting an extension of time, as required by PERB Regulation 32136 and decisional law. The employer admitted that its designated representative was in possession of the opposing party's appeal almost two weeks before the deadline, but that the employer's representative neither requested an extension of time nor sought clarification of the deadline. Although the Board may grant extensions of time or excuse late filings for good cause, parties cannot take the filing deadlines into their own hands and attempt to extend them unilaterally.

2015-2016 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

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

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-433-M	<i>County of Fresno and Fresno County Public Safety Association and Service Employees International Union Local 521</i>	SEIU appealed from an administrative determination by PERB's Office of the General Counsel which set aside the results of a decertification election and ordered a re-run of that election after consideration of SEIU's objections to the conduct of the election.	PERB adopted the administrative determination that the decertification election results should be set aside because of a serious irregularity in the conduct of the election caused by the premature mailing of voters' packets, and denied SEIU's request that this matter be remanded to the Office of General Counsel for a hearing on the allegations of employer misconduct.
Ad-434-H	<i>Regents of the University of California and Teamsters Local 2010 and Stationary Engineers, Local 39</i>	An employee organization seeking to represent higher education employees appealed from an administrative determination to void and refuse to count an employee's homemade ballot which was mailed to PERB during an mail-ballot representation election.	The Board affirmed the administrative determination to void and refuse to count the ballot. PERB construes its regulations governing representation matters narrowly and declines to look to private-sector authority for guidance when PERB's own regulations expressly address the issue and any policy concerns underlying the practice and procedure specified in the regulations. Because PERB regulations, require that all representation elections affecting higher education units "be conducted by secret ballot under the supervision of the Board," and that the ballots for such elections also "shall be prepared under the supervision of the Board," PERB refused to accept and a count an employees' homemade ballot.

2015-2016 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

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

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad.435-H	<i>Regents of the University of California and Teamsters Local 2010 and International Union of Operating Engineers, Local 501</i>	In this HEERA representation matter, the petitioner requested recognition to become the exclusive representative of the skilled trades bargaining unit; the intervenor sought some, but not all, of the classifications; and the petitioner filed a petition for Board investigation.	The Office of the General Counsel determined that the election bar applied and dismissed the case. The Board affirmed, holding that during the 12 months following certification after a valid election, no election may be held and no requests for recognition or intervention may be filed.
Ad-436-M	<i>Santa Cruz Central Fire Protection District and Professional Firefighters, IAFF Local 3605</i>	Charging party appealed the Office of the General Counsel's administrative determination that Local 3605's request for factfinding was untimely pursuant to the MMBA and PERB regulations.	The Board affirmed the administrative determination finding that Local 3605 failed to make its request for factfinding within 30-day window outlined in the MMBA and PERB regulations.
Ad-437-H	<i>Debbie Polk v. Regents of the University of California / Teamsters Clerical, Local 2010</i>	A higher education employee appealed from an administrative determination denying the employee's multiple requests for additional time in which to prepare and file appeals from dismissal in her four unfair practice cases against her employer and exclusive representative.	The Board denied charging party's appeal from the Appeals Assistant's administrative determination denying her a fifth extension of time. The indefinite and continuing nature of charging party's requests for extensions of time to appeal the dismissal of her unfair practice charges would fundamentally alter the nature of PERB's unfair practice proceedings.
Ad-438	<i>Pablo Felix Pintor v. Pomona Unified School District</i>	Charging party appealed an administrative determination by the PERB Appeals Assistant finding that his appeal of the dismissal by the Office of the General Counsel of his unfair practice charge was untimely.	The Board found the PERB Appeals Assistant's administrative determination was not in accordance with PERB regulations and that charging party timely submitted a perfected appeal. The matter was remanded for further processing.

2015-2016 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS*

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

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-439-S	<i>Earl Mykles v. Service Employees International Union, Local 1000</i>	An exclusive representative appealed from an administrative determination that it had not complied with the time limits set forth in PERB regulations for filing its opposition to an appeal from dismissal of an unfair practice charge brought by an employee against the representative.	Because charging party's appeal from dismissal of his unfair practice charge was addressed in a non-precedential decision, the Board issued a separate, precedential decision summarily denying the representative's appeal from the administrative determination as moot.
Ad-440	<i>Pablo Felix Pintor v. California School Employees Association</i>	Charging party appealed an administrative determination by the PERB Appeals Assistant finding that his appeal of the dismissal by the Office of the General Counsel of his unfair practice charge was untimely.	The Board found charging party's appeal of the Office of the General Counsel's dismissal of his charge to have been properly dismissed because charging party failed to provide an adequate proof of service with his appeal of the dismissal as required by PERB regulations.

2014-2015 DECISIONS OF THE BOARD

REQUESTS FOR JUDICIAL REVIEW

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

2015-2016 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
IR-59-C	<i>Sacramento County Superior Court v. United Public Employees, Local 1</i>	A Trial Court Act employer sought to enjoin an employee organization from striking, arguing the planned two-day strike would disrupt essential services of the Court.	PERB denied the employer's request to seek to enjoin the strike under the California Supreme Court's County Sanitation standard, which requires that it be "clearly demonstrated," on a case-by-case basis, that public employees' participation in a strike would create an imminent and substantial threat to public health and safety. The availability of replacement workers goes into the determination of whether an employee or a class of employees is "essential" to public health and safety and may be enjoined from striking. The employer's moving papers did not clearly demonstrate that, without employees in the seven positions at issue, essential functions could not or would not be performed. The employer also failed to demonstrate that it could not use managers or supervisors to perform the functions of some employees and it did not disclose how many supervisors or managers were qualified and available to perform the work of those employees the Court identified as "essential." It also failed to identify the specific level and nature of services that must be maintained to preserve public health and safety.

2015-2016 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 683	<i>California Correctional Peace Officers Association v. State of California (Department of Corrections & Rehabilitation)</i>	Whether the State of California should be enjoined for violating the Dills Act by unilaterally implementing its "Ratio Relief Reductions (RRR)" prior to negotiating either the decision or its effects with the California Correctional Peace Officers Association.	Request denied.
I.R. 684	<i>Santa Clara County Correctional Peace Officers' Association v. County of Santa Clara</i>	Whether the County of Santa Clara should be enjoined from taking specified actions against the President of the Santa Clara County Correctional Peace Officers' Association; arguing that the County violated the MMBA by issuing certain directives to the President in conjunction with his placement on administrative leave pending a disciplinary investigation.	Request denied.
I.R. 685	<i>County of Contra Costa v. California Nurses Association</i>	Whether certain CNA-represented employees should be enjoined from participating in a two-day, post-impasse strike at the County of Contra Costa's Regional Medical Center because their absence would create a substantial and imminent threat to public health and safety, and whether a preliminary injunction should issue in the event of additional strikes in the near future.	Request granted, in part.
I.R. 686	<i>United Teachers Los Angeles v. Alliance College-Ready Public Charter Schools</i>	Whether Alliance College-Ready Public Charter Schools should be enjoined from a number of unlawful activities and conduct that interfere with the protected activities of United Teachers Los Angeles.	Request granted.

2015-2016 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 687	<i>County of Solano v. Service Employees International Union, Local 1021</i>	Whether essential employees represented by Service Employees International Union, Local 1021, at the County of Solano should be enjoined from striking.	Request denied.
I.R. 688	<i>Public Employees Union Local 1 v. County of Contra Costa</i>	Whether to enjoin the County of Contra Costa to prevent it from unilaterally abolishing an entire class of employees and hiring a new classification to replace them without first giving Public Employees Union, Local 1, notice or an opportunity to bargain.	Request denied.
I.R. 689	<i>State Employees Trades Council-United v. Regents of the University of California (Merced)</i>	Whether to enjoin the University of California from contracting out bargaining unit work for deciding to proceed with a subcontracting plan, in which an outside contractor would eventually perform bargaining unit maintenance work at UC Merced, without notice and an opportunity to bargain.	Request denied.
I.R. 690	<i>County of Sonoma v. Service Employees International Union, Local 1021</i>	Whether essential employees represented by Service Employees International Union, Local 1021, at the County of Sonoma should be enjoined from striking.	Request granted.
I.R. 691	<i>County of Solano v. Service Employees International Union, Local 1021</i>	Whether essential employees represented by Service Employees International Union, Local 1021, at the County of Solano should be enjoined from striking.	Request granted.

2015-2016 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 692	<i>California Professional Public Employees Association v. State of California (Department of Human Resources)</i>	Whether CalHR should be enjoined from blocking attempts by the California Professional Public Employees Association to communicate with state employees it does not represent through their work e-mail addresses.	Request denied.
I.R. 693	<i>Sacramento County Superior Court v. United Public Employees Local 1</i>	Whether certain employees, which are represented by Public Employees Union, Local 1, should be enjoined from participating in a strike at the Sacramento County Superior Court.	Request denied.
I.R. 694	<i>Public Employees Local Union 1 v. County of Butte</i>	Whether to enjoin the County of Butte from conducting decertification elections based on allegations that the County violated its local rule in processing the decertification petitions.	Request denied.
I.R. 695	<i>Cornelius Oluseyi Ogunsalu v. San Diego Unified School District</i>	Whether the California Commission on Teacher Credentialing should be enjoined from allowing Cornelius Oluseyi Ogunsalu's Preliminary teaching credential from expiring before it processes his Clear credential application.	Request denied.

2015-2016 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 696	<i>California Attorneys in State Employment (CASE) v. California Unemployment Insurance Appeals Board</i>	Whether the California Unemployment Insurance Appeals Board should be enjoined from responding to a California Public Records Act request by the Association of California State Supervisors based on an allegation that the request seeks confidential e-mail messages protected by the Dills Act.	Request denied, without prejudice.
I.R. 697	<i>Public Employees Union, Local 1 v. County of Butte</i>	Whether the County of Butte should be enjoined from conducting decertification elections based on a claim that it violated its local rules, and therefore the MMBA, in the way it accepted and processed decertification petitions for units represented by Public Employees Union, Local 1.	Request granted, in part.
I.R. 698	<i>Santa Clara Correctional Peace Officers' Association v. County of Santa Clara</i>	Whether the County of Santa Clara should be enjoined from administering a written promotional examination for its Correctional Sergeants on the basis that it unilaterally changed the exam criteria without first giving the Santa Clara Correctional Peace Officers' Association notice and an opportunity to bargain.	Request denied.
I.R. 699	<i>International Association of Machinists and Aerospace Workers, District Lodge 947 v. City of Long Beach</i>	Whether to enjoin the City of Long Beach from certifying the results of a decertification election based on allegations that the City violated the MMBA through its activities in connection with the decertification petition campaign and ensuing election.	Request withdrawn.

2015-2016 DECISIONS OF THE BOARD

REQUESTS FOR INJUNCTIVE RELIEF

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 700	<i>Association of Long Beach Employees v. City of Long Beach</i>	Whether the City of Long Beach be enjoined from: (1) nullifying the results of two decertification elections; (2) failing to process two representation petitions filed by the Association of Long Beach Employees for those units; and (3) conducting two new decertification elections for those units, based on allegations that the City's actions violate the MMBA.	Request denied.

2015-2016 LITIGATION CASE ACTIVITY

1. *PERB v. City of Fremont (SEIU Local 1021)*, April 22, 2013, Alameda Superior Court, Case No. RG 13677821 (PERB Case No. SF-CE-1028-M). Issue: Whether the City should be enjoined from withdrawing recognition and refusing to bargain with SEIU following a “disaffiliation” election based on claims that the City interfered with the representational rights of SEIU and its members in a bargaining unit known as the Fremont Association of City Employees (“FACE”) by processing and approving a defective decertification petition for which the City itself would run the election pursuant to local rules, and that the City subsequently advised the decertification petitioner how to proceed with the disaffiliation process. SEIU’s IR Request No. 633 was granted by the Board on April 15, 2013. A complaint for injunctive relief was filed in Alameda Superior Court on May 1, 2013. On May 3, 2013, PERB filed an Ex Parte Application for Temporary Restraining Order (TRO) and Order to Show Cause (OSC) re Preliminary Injunction. On May 7, 2013, the Court issued the TRO “Granting in Part and Denying in Part,” PERB’s requested relief. On May 10, 2013, SEIU filed a Motion to Intervene, which was granted by the Court. On May 29, 2013, the Superior Court issued an order granting preliminary injunction. On June 5, 2013, the City filed with the Superior Court a notice of appeal of the order granting preliminary injunction. On July 12, 2013, SEIU filed an Ex Parte Application for OSC re Contempt and Motion for Monetary Sanctions regarding the City’s refusal to negotiate a successor MOU. The City opposed SEIU’s application, asserting that the preliminary injunction was automatically stayed by the City’s appeal. On July 23, 2013, the Superior Court issued an order denying SEIU’s Ex Parte Application for OSC re Contempt and Motion for Monetary Sanctions. On August 26, 2013, PERB filed an Ex Parte Application for a 90-day extension of the preliminary injunction. The court summarily denied the application on August 30, 2013. On November 27, 2013, SEIU filed a memorandum of costs that it had incurred in helping prepare the record to support PERB’s petition for writ of supersedeas. The City thereafter filed a Motion to Tax SEIU’s Costs, which was heard on April 9, 2014, taken under submission, and granted in full on April 11, 2014 because only PERB, and not SEIU, was granted costs on appeal. PERB filed a Request for Dismissal on July 27, 2015. This case is now closed.
2. *PERB v. SEIU Local 1021 (City of Hayward)*, August 9, 2013, Alameda Superior Court, Case No. RG 13691249; IR Request No. 640 [UPC Nos. SF-CO-320-M, SF-CE-1075-M, SF-CE-1092-M, SF-CE-1098-M]. Issue: Whether SEIU should be enjoined from calling for and conducting a strike beginning on August 12, 2013, based on the City’s allegations that it would be an unlawful pre-impasse strike involving “essential” employees, whereas the Union has filed numerous UPCs and claims the strike would be a lawful UPC strike and that all statutory impasse procedures have been

exhausted. After extensive negotiations with the parties, including two informal conferences to discuss the issue of any “essential employees” not permitted to strike, the Board granted the City’s IR request in part, and directed the General Counsel’s office to proceed to court to obtain an injunction based on the parties’ stipulation as to the essentiality of certain classifications of City employees. On August 13, 2013, the Superior Court granted PERB’s ex parte application for a TRO against a strike by “essential” City employees, as designated in the parties’ stipulation. The parties participated in a CMC on January 21, 2014. The parties have not yet settled the MOU at issue in this case, and the City implemented its LBFO in February. Another CMC was conducted on May 22, 2014, and the Superior Court Judge issued a stay of proceedings. A further CMC occurred on November 21, 2014. The Judge set the case for trial on February 1, 2016 with a pre-trial conference set for January 22, 2016. In July 2015, the parties settled their contract dispute, seeking dismissal of the complaint. On November 23, 2015, PERB filed a Request for Dismissal which was final on November 24, 2015. The case is now closed.

3. *PERB v. City of Fremont (SEIU Local 1021)*, October 15, 2013, California Court of Appeal, First Appellate District, Division Four, Case No. A139991; Alameda Superior Court, Case No. RG 13677821; IR Request No. 633 [UPC No. SF-CE-1028-M]. Issue: Whether the trial court abused its discretion by refusing to renew the preliminary injunction it issued in May 2013, requiring the City of Fremont to maintain the status quo pending completion of PERB’s administrative proceedings. The ruling challenged on appeal was apparently based on a finding that the preliminary injunction was mandatory in nature and, thus, subject to the automatic stay of Code of Civil Procedure section 916, subdivision (a), upon the filing by the City of its appeal in Court of Appeal Case No. A138888, and the Superior Court’s refusal to lift the stay upon a showing by PERB that the preliminary injunction was clearly a prohibitory injunction, designed and intended to maintain the status quo that existed before the events alleged in the UPC began in November 2012. On October 15, 2013, PERB filed a notice of appeal from the August 30, 2013 Superior Court order refusing to extend the preliminary injunction. The Court of Appeal approved use of the Superior Court record prepared as a clerk’s transcript for the City’s appeal in Case No. A138888. Briefing was completed on May 28, 2014. On July 24, 2015, SEIU disclaimed interest in the bargaining unit. PERB then filed a Request for Dismissal on July 27, 2015, which the court granted on August 11, 2015. The case is now closed.
4. *County of Riverside v. PERB (SEIU Local 721) (Factfinding)*, November 15, 2013, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E060047; Riverside Superior Court, Case No. RIC 1305661 [UPC No. LA-IM-127-M]. Issue: Whether the trial court abused its discretion by issuing a permanent injunction and writ of mandate, with statewide effect, directing PERB to dismiss all pending

MMBA factfinding requests arising from any bargaining dispute involving less than a comprehensive MOU, and to deny all such requests in the future. In the County's cross-appeal, the issue is whether the trial court erred as a matter of law by rejecting the plaintiff's claim that AB 646 is unconstitutional. On November 15, 2013, PERB filed a notice appeal from a statewide writ and mandatory injunction. SEIU joined in with its own notice of appeal from these orders on January 2, 2014. On December 18, 2013, the County filed a notice of appeal from the Superior Court's order rejecting its claim that AB 646 is unconstitutional. PERB's form of final judgment was entered in the Superior Court on December 26, 2014, and additional notices of appeal from rulings adverse to PERB, including the denial of PERB's anti-SLAPP motion may be filed by January 14, 2014. The Court ordered a briefing schedule for the cross-appeals, not including any appeals that may arise after the hearing on the attorney fees/costs motions. Both PERB and the County appealed from the attorney fee and cost orders issued by the court. SEIU filed its opening brief on October 2, 2014, and PERB filed its opening brief and Request for Judicial Notice on October 6, 2014. The County filed its Opposition to PERB's Request for Judicial Notice on October 14, 2014. On October 27, 2014, the Court reserved its determination as to the request for judicial notice until briefing has been completed. The County's Opening/Opposition Brief was filed on January 28, 2015. SEIU filed its Appellant's Reply brief on April 28, 2015. PERB filed its Appellant's Reply Brief/Cross-Respondent's Brief; Appellant's Reply in Support of Its Request for Judicial Notice on May 20, 2015. The County filed its Reply Brief on August 6, 2015, along with a Request for Judicial Notice. PERB filed its Opposition to County's Request for Judicial Notice on August 21, 2015. On August 21, 2015, the amicus curiae, League of California Cities and California State Association of Counties, filed an Application to file Amicus Curiae Brief and Amicus Curiae Brief. On August 27, 2015, the presiding justice filed the Application. PERB filed an Answer to Amicus Curiae Brief on September 8, 2015. By Order of the Supreme Court on October 9, 2015, this case was transferred to Division One of the Fourth Appellate District and given a new case number. A Request for Oral Argument was sent to the parties to be filed by November 2, 2015. Both PERB and SDHC filed their respective Requests for Oral Argument. 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 rejected the County's constitutional argument. The Court also found that the trial court erred in denying PERB's anti-SLAPP motion. The Court stated PERB was entitled to attorney's fees and reversed the trial court's award of \$15,000 in anti-SLAPP attorney's fees to the County. The Court refused to overturn the trial court's rejection of PERB's request for nominal sanctions against the County. The Decision was certified for publication.

5. *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.
6. *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. 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 PERB was awarded costs.

7. *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 complete.
8. *County of Fresno v. PERB (SEIU Local 521) (Factfinding)*, July 16, 2014, Fresno County Superior Court, Case No. 14 CE CG 02042, PERB Order No. Ad-414-M [PERB Case No. SA-IM-136-M]. Issues: Whether PERB erred by interpreting the new MMBA factfinding procedures created by AB 646 as applicable to an impasse in the parties' negotiations. The County's Petition for Writ of Mandate challenges the Board's decision in *County of Fresno* (2014) PERB Order No. Ad-414-M—which affirmed that factfinding under the MMBA is appropriate for single-issue disputes and is not limited to bargaining over an entire contract. On July 21, 2014, the petition was personally served on PERB. On July 23, 2014, the County sought ex parte relief from the Superior Court to stay further proceedings in the underlying factfinding matter for an indefinite period. PERB opposed this request for a stay; SEIU Local 521 offered a 30-day stay. The court granted the stay for 90 days, until October 21, 2014. PERB's Answer was filed on August 19, 2014. After SEIU Local 521 withdrew its fact finding request, the County filed a request for dismissal of the complaint. The court granted the County's request for dismissal on August 24, 2015. The case is now closed.
9. *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]. Issues: 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 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's filed its Supplemental Brief on April 8, 2016. PERB's 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 have requested Oral Argument.

10. *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 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 Local 2881'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 Ordinary Mandate with the Sacramento 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. The court adopted his tentative ruling as the court's final ruling. Therefore, Cal Fire's Petition for Writ of Mandate is denied. On May 18, 2016, the Judge 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.
11. *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 had argued before PERB that the SPB had a duty to bargain with the Union prior to revising its disciplinary regulations. The court denied SPB'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.” Local 2881 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.

12. *Sonoma County Superior Court v. PERB*, March 5, 2015, Sacramento County Superior Court Case No. 34-2015-80002035; PERB Decision No. 2409-C [PERB Case No. SF-CE-39-C]. Issue: Whether the Board erred in Decision No. 2409-C by reversing a Board Agent’ dismissal of a charge filed by SEIU Local 1021 alleging that Sonoma County Superior Court violated the Trial Court Employment Protection and Governance Act (TCEPGA) when it denied an employee’s request for union representation at an ADA interactive process meeting with management. The Board held that public employees have a right to union representation when meeting with management to engage in the interactive process. This case was filed in the Sacramento County Superior Court on March 5, 2015. PERB filed a Demurrer before on April 2, 2015. Real Party in Interest filed a Demurrer on or about April 10, 2015. PERB filed its MPA on October 13, 2015. SEIU filed its MPA in support of PERB’s Demurrer on October 14, 2015. The Court’s opposition to PERB’s MPA was filed on October 26, 2015. PERB filed its Reply Brief on October 30, 2015. The Demurrer hearing is scheduled for November 6, 2015. The Demurrer hearing was held on November 13, 2015, at which time the Court granted PERB’s demurrer without leave to amend. The complaint has been dismissed and the matter is closed.
13. *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.

14. *Bellflower Unified School District v. PERB (CSEA Ch. 3)*, April 30, 2015, Supreme Court of California, Case No. S226096 California Court of Appeal, Second Appellate District, Division Two, Case No. B257852, PERB Decision No. 2385 [PERB Case No. LA-CE-5508]. Issues: This petition challenges the Second District Court of Appeals denial of the writ petition filed by Bellflower Unified School District, which challenged PERB Decision No. 2385. In the appellate case, the court determined whether the Board clearly erred in Decision No. 2385-E by holding that the Bellflower Unified School District violated EERA when it failed and refused to bargain in good faith over the impact and effects of its decision to close a school and abolish classified positions. On April 30, 2015, Petitioner filed a Petition for Writ of Review with the Supreme Court. PERB and CSEA filed their respective Answer to Petition for Review on or about May 19, 2015. The Court denied the petition for review on July 8, 2015. This case is now closed.
15. *Liu v. PERB (Trustees of the California State University)*, May 14, 2015, Court of Appeal, First Appellate District, Division Four, Case No. A145123; PERB Decision Nos. 2408-H and 2391a-H [PERB Case Nos. SF-CE-1009-H and SF-CE-995-H]. Issues: Whether Board Decisions Nos. 2408-H and 2391a-H be reversed based on alleged statements made by an ALJ and Board's error. On May 14, 2015, Petitioner filed a Petition for Review. On May 19, 2015, the Court requested the Administrative Record from PERB. Given the extraordinarily large file, PERB filed a Request for Extension of Time seeking a 90-day extension. The court approved 60 days without prejudice, making the record due on July 28, 2015. The record was filed on case SF-CE-995-H only, as the court denied the file request for case SF-CE-1009-H as moot since the Supreme Court denied review in Case No. S225383 on May 13, 2015. On June 22, 2015, PERB filed a Request for Second Extension of Time of the Administrative Record which was granted to August 27, 2015. PERB filed the Administrative Record on August 27, 2015. Liu filed his opening brief on November 6, 2015. PERB filed its Respondent's Brief on December 11, 2015. Liu's filed his Reply Brief and Motion to Augment the Record with 10 volumes of missing transcripts from the Administrative Record on January 5, 2016. On January 7, 2016, the Court granted the motion to augment the record. On January 8, 2016, Liu filed additional motions to augment the record with missing documents from the record. On January 14, 2016, PERB filed an Objection to Petitioner's Augmentation of the Record with Unrelated Transcripts. On January 21, 2016, the Court issued its Order denying the petition for writ of review. On January 29, 2016, Liu filed a letter with the presiding justice essentially requesting

reconsideration. On February 1, 2016, the court deemed his letter as a subsequent petition for writ of review and then denied the petition the same day. This case is complete.

16. *County of San Bernardino v. PERB (San Bernardino County Public Attorneys Association)*, June 10, 2015, Court of Appeal, Fourth Appellate District, Division 2, Case No. E063736, PERB Decision No. 2423-M [PERB Case Nos. LA-CE-431-M and LA-CE-554-M]. Issue: Whether the Board erred in Decision No. 2423-M, holding that the San Bernardino County Office of the Public Defender violated the MMBA by implementing a blanket policy that prohibits a Deputy District Attorney from representing a Deputy Public Defender in a disciplinary investigatory interview; and by requiring its Deputy Public Defenders to participate in investigatory interviews—without representation—under threat of discipline. The County of San Bernardino, Office of the Public Defender, filed its Petition for Writ of Extraordinary Relief on June 10, 2015. Under an extension of time, PERB filed the Administrative Record on August 8, 2015, and a supplemental record on August 19, 2015. The County’s opening brief was filed on September 24, 2015. PERB’s and the Union’s briefs were filed on October 29, 2015. The County’s Reply Brief was filed on December 21, 2015, along with a Request for Recusal, and Motion re Judicial Notice; Supporting Memorandum and Declaration; Order. On December 24, 2015, the California State Association of Counties and League of California Cities filed an application and proposed amicus curiae brief. The Court accepted and filed the amicus brief on December 31, 2015. On January 8, 2016, the Court granted Petitioner’s request for recusal. PERB and San Bernardino County Public Attorneys Association filed their Response to Amicus Curiae Brief on January 11, 2016. On January 25, 2016, the Court requested supplemental briefing in the above matter. The question focused on the reasonableness of the Public Defender’s blanket ban on cross-representation given its possible effect on the relationship between deputy public defenders and their clients. The County, PERB and San Bernardino County Public Attorneys Association each filed their individual supplemental letter brief on February 16, 2016. The Court denied the petition on March 23, 2016. A Petition for Review was filed with the Supreme Court on April 4, 2016, which was denied on May 11, 2016. This case is now complete.
17. *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 its Opening Brief on October 30, 2015. PERB and the County filed their respective Briefs on or around December 21, 2015. The Unions filed its 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. This case is fully briefed.

18. *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-E 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, 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. PERB's Request for Extension of Time to File the Certified Administrative Record was granted. 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 on the ground that the petitioner has not sufficiently stated facts, evidence, or legal authorities.
19. *PERB v. Service Employees International Union, Local 521 (County of Santa Clara)*, June 29, 2015, Santa Clara County Superior Court, Case No. 115 CV 282467; IR Request No. 682 [PERB Case No. SF-CO-366-M]. Issue: Whether a pre-impasse strike by Service Employees International Union, Local 521, should be enjoined in its entirety or, alternatively, whether the court should enjoin only essential employees whose absence creates a substantial and imminent threat to the health or safety of the public. On Tuesday, June 23, 2015, the County of Santa Clara gave PERB its 24-hour notice it would seek injunctive relief against Service Employees International Union, Local 521, who announced its members were striking on June 30, 2015. On Wednesday, June 24, 2015, the County began a piecemeal filing of its IR Request. On Thursday, June 25, 2015, SEIU filed its response. On Monday, June 29, 2015, PERB appeared in court to oppose the County's effort to seek a broader injunction and, thereby, circumvent the Board's jurisdiction. In the ex parte hearing, the court recognized PERB's exclusive jurisdiction and granted a TRO using PERB's complaint and its Exhibit A (essential employee list). The court then set a hearing on June 30, 2015, for further proceedings.

The court, however, canceled that hearing after the parties reached a tentative agreement in their negotiations, effectively mooted the injunctive relief request. PERB dismissed the complaint on September 14, 2015.

20. *County of Santa Clara v. Service Employees International Union, Local 521; (PERB)*, June 29, 2015, Santa Clara County Superior Court, Case No. 115-CV-282408; IR Request No. 682 [PERB Case No. SF-CO-366-M]. Issue: Whether the County of Santa Clara may bypass PERB by unilaterally seeking an injunction from the superior court to block a pre-impasse strike by Service Employees International Union, Local 521. On Friday, June 26, 2015, the County of Santa Clara informed PERB that it planned to petition the court on Monday, June 29, 2015, to enjoin a strike by SEIU if PERB did not agree to seek an injunction on that date. PERB informed the County that, subject to Board approval, it planned to seek the injunction on Tuesday, June 30, 2015. As a consequence, on Sunday, June 28, 2015, the County emailed 24-hour notice to the parties of ex parte appearance the next morning. On Monday, June 29, 2015, PERB appeared in court to oppose the County's effort to seek an injunction and, thereby, circumvent the Board's jurisdiction. In the ex parte hearing, the court recognized PERB's exclusive jurisdiction and granted a TRO using PERB's complaint and its Exhibit A (essential employee list). The court then set a hearing on June 30, 2015, for further proceedings. The court, however, canceled that hearing after the parties reached a tentative agreement in their negotiations, effectively mooted the injunctive relief request. This case was dismissed on 7/30/2015 by the County and is now complete.
21. *PERB v. California Nurses Association; (County of Contra Costa)*, October 2, 2015, Contra Costa Superior Court, Case No. C15-01814; IR Request No. 685 [PERB Case No. SF-CO-370-M]. Issues: Whether certain CNA-represented employees should be enjoined from participating in a two-day, post-impasse strike from October 6-7 because their absence would create a substantial and imminent threat to public health and safety, and whether a preliminary injunction should issue in the event of additional strikes in the near future. On October 2, PERB filed a complaint and applied ex parte for a Temporary Restraining Order (TRO) and Order to Show Cause re Preliminary Injunction (OSC) from the Contra Costa County Superior Court. PERB sought an injunction covering the 37 registered nurses assigned to the County's detention facilities and locked psychiatric units. The same day, the County applied to intervene in the matter, and for an injunction applying to all 152 employees covered by its injunctive relief request to PERB. CNA stipulated to the 16 employees in the detention facilities, opposing the remainder. Following argument in chambers, the Court granted PERB's application and issued the TRO and OSC. The Court denied the County's application for an injunction covering the additional 115 employees the Board determined not to be essential, and deferred ruling on the County's application for intervention. On October 21, the Court issued tentative rulings: (1) granting the County's intervention; and (2) denying the preliminary

injunction as moot. Following oral argument on October 22, the Court confirmed its tentative ruling denying the preliminary injunction. (No party contested the tentative ruling on intervention.) On November 18, 2015, the parties notified PERB that they had settled their contract dispute and requested dismissal of the complaint. PERB requested dismissal of this matter on December 3, 2015. The case is now closed.

22. *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: The issue is whether the Board erred in Decision No. 2454-M by holding that that the District violated the Meyer-Milius-Brown Act 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, Division Three. The Administrative Record was due on November 5, 2015. PERB, however, filed an application for a 32-day extension of time, which the court granted. The Admin Record was then filed on December 7, 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's Reply Brief was filed on June 6, 2016.
23. *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 difficult 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 of items PERB requested and directed the parties to prepare a revised Proposed Order in accordance with his 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's 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, the court set a Further Status Conference for October 7, 2016.

24. *PERB v. Service Employees International Union Local 1021 (County of Sonoma)*, November 17, 2015, Sonoma Superior Court, Case No. SCV 258038; IR Request No. 690 [PERB Case No. SF-CO-375-M]. Issue: Whether the Court should enjoin essential employees working for the County of Sonoma from striking. On November 16, 2015, at 6:00 p.m., SEIU Local 1021 announced to its members that it was striking on the following morning. The County, believing that a strike of unknown duration was imminent as early as the prior week, had filed a request for injunctive relief on November 13. During a meeting hosted by PERB, SEIU and County had previously stipulated to 77 essential positions. Once SEIU announced the strike, the Board in an expedited process approved the IR request as to the 77 stipulated employees plus 32 employees requested by the OGC for a total 109 essential employees. That same evening, PERB gave notice to SEIU Local 1021 and the County that it would appear ex parte in Sonoma County Superior Court the following day to seek a TRO to enjoin the essential employees from striking. On November 17, PERB appeared ex parte in Sonoma County Superior Court. Along with PERB's IR papers, the County filed a motion to intervene. The Court enjoined the 77 stipulated employees and 15 other employees for a total of 92 essential employees. The Court also granted the County's motion for intervention. On November 18, the Court issued its TRO/OSC, and set the PI hearing date for December 3. On November 24, PERB filed its brief in support of the PI, which requested that the Court enjoin the 109 employees PERB originally sought. On November 24, the County filed its Reply Brief in support of the PI, which asks the court to adopt PERB's list of essential employees, plus approximately 23 additional positions (132). On December 1, SEIU filed its opposition to the PI. The PI hearing was held on December 8. PERB attorneys argued that the PI should enjoin all 109 employees the Board determined were essential. PERB prevailed, and the Court signed PERB's proposed order the same day. A Case Management Conference was scheduled for March 17, 2016. The parties, however, settled their contract dispute, and PERB dismissed the complaint on March 23, 2016.

25. *PERB v. Service Employees International Union Local 1021 (County of Solano)*, November 17, 2015, Solano Superior Court, Case No. FCS046244; IR Request No. 691 [PERB Case No. SF-CO-376-M]. Issue: Whether the Court should enjoin essential employees working for the County of Solano from striking. On November 17, at about 10:21 a.m., employees for the County of Solano represented by SEIU 1021 began a no-notice strike. County Counsel contacted PERB giving its 24-hour notice of its intent to seek injunctive relief. Because SEIU 1021 had already conducted a two-day strike in October, PERB's list of essential employees was nearly complete, and the County's IR papers were immediately submitted to PERB. On November 18, SEIU filed its

opposition to the County's IR request. In an expedited process, the Board granted, in part, the County's IR request as to the 50 essential employees listed on PERB's Exhibit A. The OGC notified the parties of the Board's decision, and that PERB will appear ex parte on November 18 in the Solano County Superior Court seeking an injunction that precludes essential employees from striking. The County filed its request for intervention along with PERB's IR papers. At the hearing, the judge adopted PERB's full recommendation, enjoining the 50 essential employees on PERB's Exhibit A, and granted the County's motion to intervene. The Court set the PI hearing for December 9. On November 19, SEIU and the County announced that the parties reached a tentative agreement on their successor MOU. The County Board of Supervisors approved the MOU on December 8. PERB filed a Request for Dismissal and this case was complete on December 8, 2015.

26. *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, 2015, 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, 2015. 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. Ross. The City filed an Opposition to Application for Extension of Time to File PERB's Brief. The RPIs (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 RPIs (Unions). On May 23, 2016, the Court granted a 30-day extension of time to file responsive briefs for PERB and RPIs, 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.

27. *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, 2015, 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, 2015. 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 RPIs (Unions). On May 20, 2016, Boling et al. filed an Opposition to the Application for Extension to File Brief by RPIs (Unions). On May 23, 2016, the Court granted a 30-day extension of time to file responsive briefs of PERB and RPIs, 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.

28. *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 17 volumes of the 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.
29. *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 of Butte 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 would be 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, Teamsters Local 137 filed an Opposition to Application for Preliminary Injunction along with a Memorandum of Points and Authorities in Support of Opposition. On May 16, 2016, the County also filed its Opposition to Preliminary Injunction. On May 18, 2016, PERB filed its Reply to the County of Butte and Teamsters Local 137's Opposition to Request for Preliminary Injunction along with a Proposed Order Granting Preliminary Injunction. PEU Local 1 also filed a Reply to the County of Butte 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. A Case Management Conference is scheduled for July 1, 2016. On May 31, 2016, the Teamsters Local 137 filed an Answer to Unverified Complaint. On June 7, 2016, Teamsters Local 137 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 Teamsters Local 137's Opposition to UPEC's Motion to Intervene and Memorandum of Points and Authorities in Support of Reply. On or about June 24, 2016, PERB, Teamsters Local 137, UPEC Local 792 and the County of Butte filed their respective Case Management Statements for the Case Management Conference of July 1,

2016. On July 12, 2016, PERB filed its Case Management Statement for the Case Management Conference scheduled for July 15, 2016.

30. *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 the Public Employment Relations Board 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 campaign.

31. *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 was filed on August 17, 2016, and the demurrer hearing will be held on August 30, 2016.

32. *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 had argued before PERB that the SPB had a duty to bargain with the Union prior to revising its disciplinary regulations. The court denied SPB'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 of 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." Local 2881 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.
33. *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 that same day. 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 to file. 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 are ratified, and the order was signed by the Judge. A hearing is set for October 20, 2016, regarding the status of the preliminary injunction.

34. *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 the way that its employees investigated and adjudicated unfair practice charges filed by Mazdeh and Abrahamian. In particular, plaintiff allege that PERB violated these federal laws when Board agent's conspired to dismiss their 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 in a Civil Action 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 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.
35. *Earl Mykles v. PERB (Service Employees International Union Local 1000)*, June 27, 2016, California Court of Appeal, Third Appellate District, Case No. C082326; Dismissal [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. PERB will file its Answer to the Petition on or about September 21, 2016.

36. *Ivette Rivera v. PERB (EBMUD, AFSCME Local 444)*, June 22, 2016, Alameda County Superior Court, Case No. RG16813608; PERB Decision Nos. 2472-M, 2470-M [PERB Case Nos. SF-CO-349-M, SF-CO-338-M, SF-CE-1208-M]. Issue: Whether PERB erred in PERB Decision Nos. 1371-M and 2470-M when it dismissed three of Rivera's unfair practice charges. The issue is whether in dismissing these 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, MPAs in support of the Demurrer, Notice of Hearing, Request for Judicial Notice, Declaration in support of the Request for Judicial Notice, and the [Proposed] Order. 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.
37. *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 is due August 24, 2016, and PERB's Responsive Brief is due September 28, 2016.

