

# 10<sup>th</sup>

# Anniversary Report



**Public Employment  
Relations Board**

**George Deukmejian**  
Governor  
State of California

**PUBLIC EMPLOYMENT RELATIONS BOARD**

**October 15, 1986**

**10th Annual Report**



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Nancy Burt, Member  
William A. Craib, Member  
Marty Morgenstern, Member  
Stephen Porter, Member

## **ACKNOWLEDGEMENTS**

The Public Employment Relations Board especially appreciates the work of John Yewell, Karon Hart, Jack Metcalf, Myrlys L. Stockdale, Richard Barker and Genie Olson. Also acknowledged for their special contributions, which were in addition to their regular work assignments, are Debbie Baxter and Rita Lugo.

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## MESSAGE FROM THE CHAIRPERSON

This year marks the tenth anniversary of the Public Employment Relations Board (PERB). In that time span, the Board has issued nearly 600 decisions, and has made precedential rulings on almost every major collective bargaining issue that affects the State, our schools, State colleges, universities, employers and employees. The impact of these decisions has been to stabilize and unify labor relations for the vast majority of California's public employees.

Because the Public Employment Relations Board is an administrative agency, it provides expertise in labor relations, thereby freeing the courts from the necessity of hearing a myriad of labor disputes for which they have not the time or the personnel to do justice. Instead, our courts are free to concentrate on the general oversight of the statutes we administer. For resolution of their labor disputes, reliance on PERB by employee organizations and management is faster and more efficient than pursuing remedies in State court. Issuance of timely and quality decisions as well as the provision of cost-efficient labor relations services, are the goals of this Board.

Finally, I would note that although PERB's jurisdiction has increased from covering only school employees to now covering State, University of California and California State University employees, the agency remains one of the State's smallest. With under 100 full-time employees, PERB provides guidance to well over 653,500 teachers, professors, support personnel and State employees. Our staff, despite its small size, plays a critical role in assuring that the citizens of California continue to be served by employees who are fairly represented by their employee organizations, and fairly treated by their employers.

Deborah M. Hesse



**Deborah M. Hesse  
Board Chairperson**

**Deborah M. Hesse** began her five year term as member and chairperson of the Public Employment Relations Board in January 1984. Prior to her appointment to the Board, Ms. Hesse had served as Deputy Director of the State Department of Personnel Administration (DPA) since January 1983. From 1979 until joining DPA, Ms. Hesse was an Affirmative Action Officer for the State Department of Justice. Ms. Hesse worked for two years as a Management Analyst with the Secretary of State's office.

Previously, she was Assistant to the Director of the Governor's Office of Employee Relations from 1976 to 1977. She also spent part of 1977 in the Department of Consumer Affairs and Investigative Services.

Ms. Hesse holds a Bachelor's Degree in Social Work and a Master's Degree in Public Administration, both from the California State University at Sacramento. Her term runs through December 1988.



## BOARD MEMBERS

**William A. (Bill) Craib** was appointed as a member of the Public Employment Relations Board in February 1986. Mr. Craib retired from the California Department of Transportation in 1981, after serving as an engineer since 1958. For the 1984-85 year, he was appointed Honorary Mayor of his hometown, Orangevale, CA. From 1980 to 1983, he served as National President for the 500,000 member Assembly of Governmental Employees. Mr. Craib was the President of the California State Employees' Association (CSEA) from 1976 to 1979. Mr. Craib also served as an elected public official and Board member of the Westborough County Water District. His term as a member of the Public Employment Relations Board runs through December 1990.



**William A. Craib**  
Board Member



**Nancy Burt**  
Board Member

**Nancy Burt** was appointed to the Public Employment Relations Board in 1982. Ms. Burt has served as Administrative Officer and Director of Research for the California State Senate Rules Committee. From 1977 to 1981, Ms. Burt was a Senior Consultant to the Senate Majority Leader. Ms. Burt served as Staff Director for the Senate Majority Caucus for one year. She has taught as an Associate in the English Department at the University of California at Santa Barbara. Ms. Burt holds a Bachelor's Degree in English from the University of Utah, and a Master's Degree in English from the University of California at Santa Barbara. Her term on the Board runs through December 1987.



## BOARD MEMBERS



**Stephen Porter**  
Board Member

**Stephen Porter** was appointed to the Public Employment Relations Board in April 1985. Prior to this, he worked for the State Department of Justice for 22 years as a Deputy Attorney General in the Administrative Law Section and as the Senior Assistant Attorney General in charge statewide of the Public Administrative Law Section. Later he served as Assistant Chief of the Civil Law Division. Before joining the Department of Justice, he was a Deputy District Attorney in Contra Costa County serving as a criminal prosecutor. Mr. Porter did his undergraduate work at the University of California at Berkeley and received his law degree from the Hastings College of Law in San Francisco. His term expires the end of December 1989.

**Marty Morgenstern** was appointed as a member of the Public Employment Relations Board in May 1982. In 1980, he was appointed as the first Director of the newly created state Department of Personnel Administration. He has served as Director of the Governor's Office of Employee Relations, Operations Administrator for the California State Employees' Association, California Director of AFSCME, and President of the Social Service Employees Union in New York City. Mr. Morgenstern has a BA from Hunter College in New York City, and has taught labor relations at USC Graduate School for Public Administration and at UC Davis. He served on the Advisory Board of the University of San Francisco, Labor Management School. His term expires the end of December 1986.



**Marty Morgenstern**  
Board Member

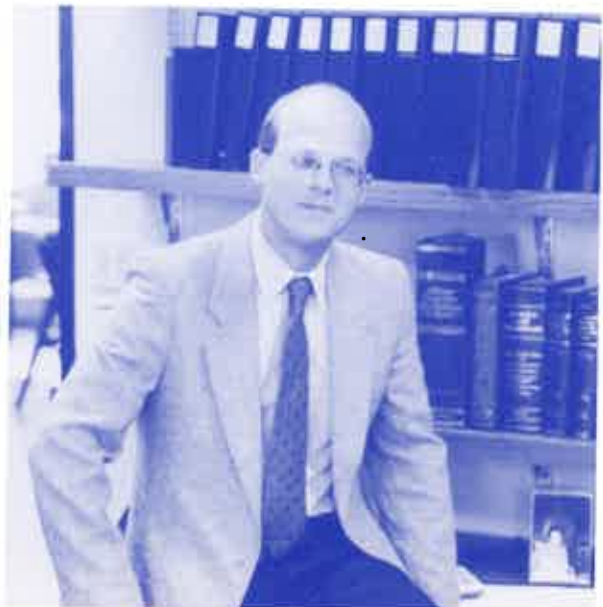
## MANAGEMENT STAFF



**Charles L. Cole**  
**Executive Director**

"Chuck" Cole has been the Executive Director of the Public Employment Relations Board, formerly the Educational Employment Relations Board, since April 1976. He is the immediate past president of the Industrial Relations Association of Northern California. A graduate of the University of California at Riverside, he has been an Assembly Fellow where he was assigned to the California State Assembly Committee on Ways and Means; served as Senior Consultant to the Assembly Committee on Public Employees and Retirement; and was a Legislative Advocate for the California State Employees' Association.

Jeffrey Sloan was appointed General Counsel of the California Public Employment Relations Board by Governor George Deukmejian in June of 1986. A 1977 graduate of the University of California, Hastings College of the Law, he worked as an attorney for PERB in 1978, as an associate for the labor firm of Beeson, Tayer and Bodine from 1979 to 1980, as PERB's Assistant General Counsel from 1981 to 1985, and as Acting General Counsel from September 1985 until his formal appointment.



**Jeffrey Sloan**  
**General Counsel to the Board**

## MANAGEMENT STAFF

**Janet E. Caraway** has served as the Chief of the Division of Representation. She joined PERB in 1976 as supervisor of representation staff in the Los Angeles Regional Office and was appointed Director of the Sacramento Regional Office in 1980. She is a past president of the Association of Labor Relations Agencies, and past president and former field representative, Social Services Union, Local 535, SEIU. She has a degree in social work from CSU Long Beach and was a social worker with the County of Ventura from 1969–1974.



**Janet E. Caraway**  
**Chief, Division of Representation**



**Fred D'Orazio**  
**Chief Administrative Law Judge**

Fred D'Orazio has served as the Chief Administrative Law Judge since 1982. He was a PERB administrative law judge for four years prior to assuming the duties as Chief Administrative Law Judge. Before joining PERB, Mr. D'Orazio was Associate General Counsel for the National Treasury Employees Union. Mr. D'Orazio received his law degree from American University, Washington College of Law, in Washington, D.C. He received his undergraduate degree from The George Washington University, also in Washington, D.C. He is a member of the California Bar and the District of Columbia bar.



## MANAGEMENT STAFF



**Stephen Barber**  
**Assistant Executive Director**

**Stephen Barber** is a native Californian from Taft. He has worked as a cowboy, fireman, oilfield hand and a truck driver. He served as Deputy Director in the Health and Welfare Agency after three years as an Administrative Assistant to State Legislators. He helped to organize the Educational Employment Relations Board in 1976, serving as the Executive Assistant to the Board itself. He has served PERB for ten years, the last three as its Assistant Executive Director. Mr. Barber has a BA in Political Science from UCLA. and he has an MA from San Diego State.

## REGIONAL DIRECTORS

**Robert Bergeson** has been employed by the Public Employment Relations Board since October 1981. Mr. Bergeson originally worked for the Board as a Public Employment Relations Specialist. He assumed the role of acting Regional Director in January 1985 and accepted a permanent appointment to that position in April 1985. Prior to coming to PERB, Mr. Bergeson's employment background included working as an Employee Relations Administrator for Northrop Corporation and as General Manager of the Solano County Employees Association. Mr. Bergeson holds a Master of Public Administration degree from San Diego State University and a Bachelor of Arts degree from California State University, Northridge.



**Robert R. Bergeson**  
**Los Angeles Regional Director**

## REGIONAL DIRECTORS



**Anita I. Martinez**  
**San Francisco Regional Director**

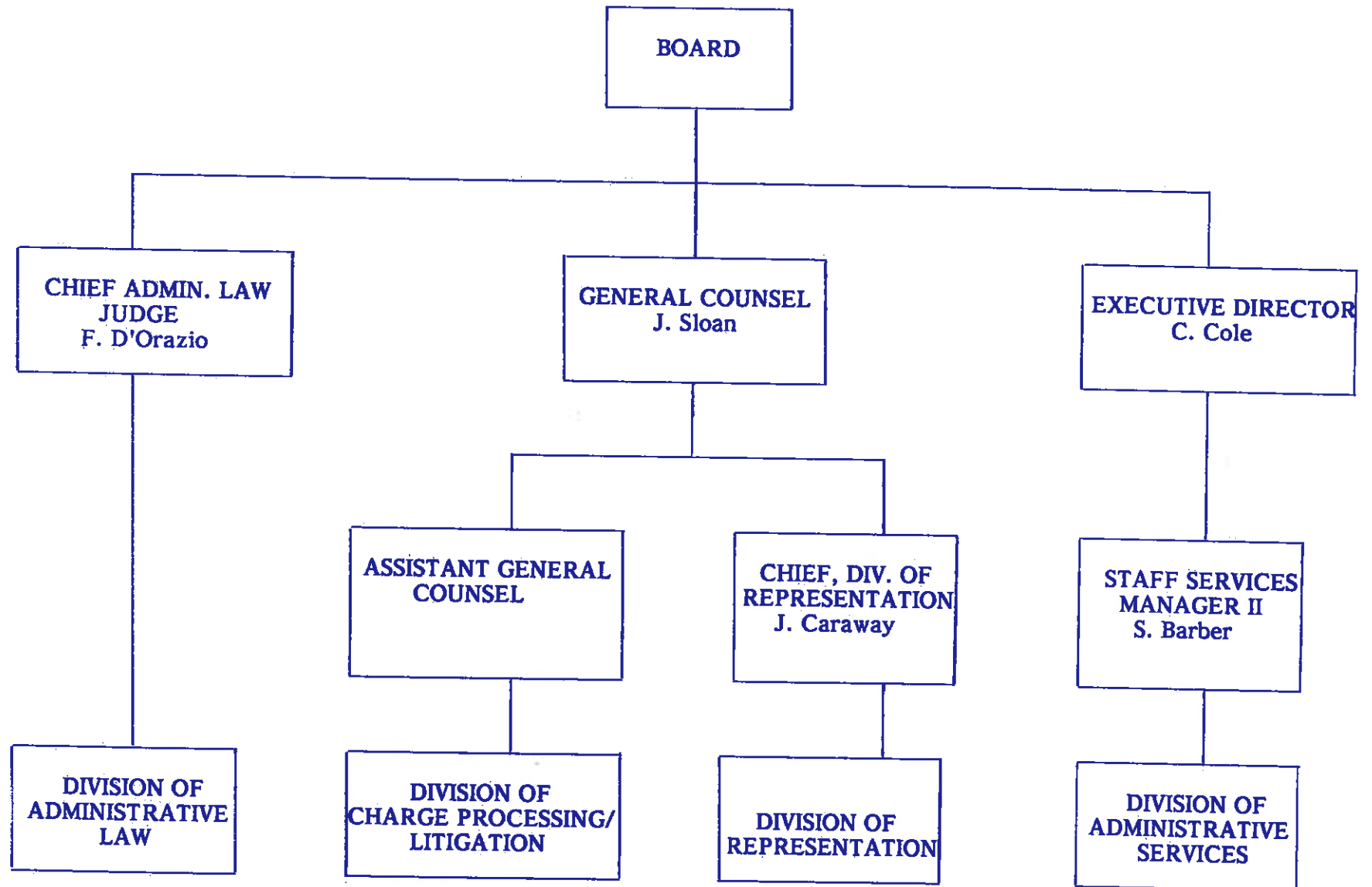
**Anita Martinez** has been employed by the Public Employment Relations Board since February 1976. Ms. Martinez originally worked for the Board as a Public Employment Relations Board Specialist and since 1982 has served as the San Francisco Regional Director. Prior to coming to PERB, Ms. Martinez worked for the Agricultural Labor Relations Board (1975-76) and the National Labor Relations Board (1973-75). Ms. Martinez holds a Bachelor of Arts degree from the University of San Francisco.

**Ronald Hoh** has been Regional Director for the Sacramento region of the Public Employment Relations Board since September 1985. Prior to that time he was the Director of Mediation Services for the Iowa Public Employment Relations Board since 1979, and as a mediator/arbitrator hearing officer for that agency since 1975. He also spent one and a half years as a field examiner for the National Labor Relations Board in Milwaukee and Peoria, Illinois, and was a part-time instructor in labor relations at Des Moines Area Community College for three years.



**Ronald Hoh**  
**Sacramento Regional Director**

# PUBLIC EMPLOYMENT RELATIONS BOARD



## **CHAPTER ONE**

### **MESSAGES**



## **CHAPTER ONE**

### **MESSAGES FROM:**

All former members of the Public Employment Relations Board and the three legislative authors of the Acts were invited to comment upon how well the Acts have functioned since their inception. We also asked them what PERB might look forward to in the next ten years. We were delighted to hear from some of those persons. The excerpted comments on the following pages reflect the views of the authors and do not necessarily represent the views of the Public Employment Relations Board.

- **Honorable Albert S. Rodda**, former State Senator and author of the Educational Employment Relations Act (EERA).
- **Senator Ralph C. Dills**, author of the State Employer–Employee Relations Act (SEERA).
- **Virgil W. Jensen**, former member of the Public Employment Relations Board.

## COMMENTS ON COLLECTIVE BARGAINING, A DECADE AFTER IMPLEMENTATION

by Albert S. Rodda

When I first began teaching at a local high school in 1934, there was no tenure, no salary schedule, and no involvement of the faculty in the administration of the district. The Superintendent functioned as a dictator and he had complete support of the Board. Decisions having to do with teacher hiring, termination and salary status were made by the district Superintendent.

Later, I taught at Sacramento Junior College, beginning in 1946. In the middle fifties, I was elected President of the American Federation of Teachers, Local 31. At the time, there was no involvement of the faculty through the AFT or California Teachers Association in school administrative decisions. There was an Advisory Council on the district budget, but no faculty served on it.

The AFT local approved a resolution in about 1956 asking for faculty representation on the Council. I presented it to the City Unified School District Board and my presentation was a joke. About twenty minutes was spent interrogating me about the role of the AFT; no action was taken on the resolution. In fact, it was not even discussed by the Board members. After twenty minutes of badgering, I walked away from the meeting angry and frustrated.

My experiences as a teacher prompted my working with Assemblyman Russell to amend the Winton Act. These amendments improved the Winton Act, but it did not provide for a clear definition of the scope of bargaining, a written contract, an exclusive negotiating unit for each category of employee, a state agency to interpret the law, a meaningful definition of impasse, and an effective procedure for resolving impasse.

During the years when the Act was in effect, the meaning of the law was established by the judiciary through its interpretation of the Act since there was no state administrative agency. One critical outcome of court action was the interpretation of the scope of negotiations to be wide open, or not subject to limitation. This was very disturbing to local school boards and administrators.

The courts, until last year, consistently interpreted the language in the Winton, the Winton-Russell, and the Rodda Acts to deny the right of school employees to strike, unless, as I recall, the administration was guilty of unilaterally violating a contract or the negotiation procedure as defined by statutory law. And, of course, prior to the Winton Act, the courts had ruled against the strike consistently. Those involved in the development of school employer-employee relations legislation, therefore, assumed and acted on the assumption that the language in California labor law to have that meaning and intent. I have a lengthy Legislative Counsel's opinion supportive of that understanding in the law.

Dissatisfaction over the way the Winton-Russell Act was being implemented developed among both the employees, school boards, and administrators. As Chairman of the Senate Education Committee, I chaired an important hearing on the issue of collective bargaining in the public schools in 1973 and then worked cooperatively with local school boards, school administrators, the teachers, and classified employees to enact a compromise law which would constitute a constructive change. The outcome was the enactment of SB 160.

The law, SB 160, provided for a written contract, traditional language relating to the strike, a definition of impasse, and authorization for the use of mediation and factfinding as a means of achieving a settlement of unresolved issues. It also contained a statement of management rights, and provided exclusive negotiation by an employee chosen bargaining unit. It also created the Educational Employment Relations Board, EERB, (now PERB of course) with the responsibility of administering and interpreting the Act.

Since its implementation, the Act has served the State well. In fact, it is amazing that there have been as few work interruptions as have occurred, given the adverse and negative fiscal effects of Proposition 13 on the schools, K-14. Of course, the Supreme Court decision of last year which gives employees the right to strike under certain conditions has changed the intent and purpose of the Act. It will require the passage of time before the significance of that opinion on school employer-employee relations will be understood. Frankly, I think that the decision is an inappropriate one. I do not favor employee strikes in the public schools.

The most serious problem experienced in the implementation of the Act, in my opinion, has been largely one of the personality characteristics of those involved in the implementation of the Act by those on both sides of the negotiation. In addition, the rivalry between the employee organizations has also contributed to some of the problems which have been associated with the implementation of the law. There seem, also, to be greater problems encountered in the conduct of negotiations in small school districts — fiscal and personal, I believe. And, as I previously mentioned, the inadequacy of the definition of scope with respect to non-certificated employees remains an issue.

One of the most positive aspects of the Act has been the use of mediation and factfinding in the settlement of impasse situations. The process has the effect of establishing more meaningful good faith and understanding between the participants and leads to a constructive resolution therefore of differences, given the inability today of local school districts to generate funds through the approval of property tax increases or the authorization of other forms of revenue increases.

As stated above, a clarification of the definition of scope for the non-certificated employees remains an issue worthy of resolution.

Frankly, I think that employee strikes are not in the professional interests of those engaged in public education, and that some consideration might be given, therefore, to a clarification of that issue through the implementation of statutory restrictions, if possible, given the character of the court decision.

Thanks for requesting comments from a biased person. Frankly, I think that it has been equal to my best hopes and expectations at the time of its enactment, and the public is fortunate to have such a law in effect.

## **RALPH C. DILLS**

In my opinion, taking all things into consideration, I believe the State Employer–Employee Relations Act has worked well and has met most of my hopes and expectations. We have given our State employees the opportunity to meet and confer with management on a more or less equal basis and, compared with the procedures of the past, it has been a definite improvement.

I know that the first few years under the law were difficult years for PERB. Much work had to be done in the area of defining and clarifying the law, and establishing precedent and guidelines for all to follow. This was a major task with an organization as large as our State government. I believe that PERB accomplished this task in a responsible and credible manner, and the members and staff of PERB can take well-deserved credit for that accomplishment.

As a final comment, I would only express the wish that the decision-making process at PERB be expedited and that speedier decisions be handed down to the individuals involved in the process. I am sure that this is also your goal, and that you are working to this end.

Congratulations on your Tenth Anniversary!

## VIRGIL W. JENSEN

Looking back on the ten year history of public sector collective bargaining in California, several thoughts come to mind:

- The joy of victory expressed by employees and union representatives when each of the public sector collective bargaining bills were passed.
- The certainty expressed by management groups and representatives that the scope of representation was quite limited in the Rodda Act.
- The conflicts over unit and representation issues.
- The difficulties experienced in negotiating those first contracts.
- The joy of victory expressed by employees and union representatives over the PERB decisions regarding scope, management rights, concerted activities, etc.
- The surprise and frustrations expressed by management representatives over many of those same PERB decisions.
- The ability of most union and management representatives to find ways to make collective bargaining work in a positive manner either because of or in spite of the PERB decisions.

- The realization by most union and management representatives that positive employer employee relations could be maintained by conducting business within the parameters prescribed by state laws and PERB.

- The positive memories of my personal experiences with the PERB Board Members and the PERB staff.

All things considered, I believe that the collective bargaining laws and the Public Employment Relations Board decisions have helped to create a balance of power between employees and employers. Employees and employers have had to find new ways to work cooperatively together to identify and resolve their concerns. In most cases, these efforts, I believe, have helped to create a more positive climate of employer-employee relations.

I have personally enjoyed the opportunity to be a part of these endeavors as an employer representative and as a member of the Public Employment Relations Board. I would encourage employers and employees to look at contract proposals as proposed solutions to problems and to work cooperatively together to identify and seek appropriate solutions to those problems. I believe that we all have the potential to find ways to promote positive employer-employee relations within our workplace. PERB will need to keep this philosophy in mind so that the agency can continue to make a positive contribution toward this goal.

## **CHAPTER TWO**

### **PURPOSES AND DUTIES OF PERB**



## CHAPTER TWO

### Purposes and Duties of PERB

#### PURPOSE

The Public Employment Relations Board (PERB) was created by the provisions of the Educational Employment Relations Act (EERA) of 1976. This bill was authored by State Senator Albert S. Rodda, and granted collective bargaining rights to California's public school employees. Similar rights were granted to State employees by the State Employer-Employee Relations Act (SEERA) of 1978 authored by Senator Ralph C. Dills. In 1979, coverage was extended to higher education employees under the provisions of the Higher Education Employer-Employee Relations Act (HEERA) authored by Assemblyman Howard Berman.

PERB is a quasi-judicial agency established to direct supervision and regulation of collective negotiations for California public sector employees covered by these Acts. The Board is empowered to: (1) conduct secret ballot elections to determine whether or not employees wish to have an employee organization represent them at the bargaining table; (2) prevent and remedy unfair practices whether committed by employers or employee organizations; (3) break impasses that may arise at the bargaining table by establishing procedures to resolve such disputes; (4) ensure that the public receives accurate information and has time to register its opinion regarding negotiations; (5) interpret and protect the rights of employers, employees and employee organizations under the Acts; (6) monitor the financial activities of employee organizations that are not required to report their transactions under federal law; (7) conduct research, perform public education and conduct training programs related to public employer-employee relations.

Approximately 653,507 public sector employees and 1,175 employers are

included under the jurisdiction of these three Acts. The majority of these employees (444,555) work for our public school system from pre-kindergarten through, and including, our Community College system (K-14). The remainder of these employees covered are employed by the State of California (120,337) and 88,615 employees that work for the University of California, the California State University, and the Hastings College of Law. Municipal, county, and local special district employers and employees are not included. They are covered under the Meyers-Milias-Brown Act.

PERB is headquartered in Sacramento with regional offices in Los Angeles, Sacramento and San Francisco. The Agency consists of a five member Board, its administrative services unit, the General Counsel, and the Division of Administrative Law.



A witness at a PERB hearing testifies as Administrative Law Judge Manuel Melgoza looks on.



## ORGANIZATION OF PERB

The agency consists of the Board, a General Counsel, a Division of Administrative Services, a Division of Administrative Law, and a Division of Representation.

The Board is composed of five members who are appointed by the Governor and subject to confirmation by the State Senate. The Board has the overall responsibility for administering the EERA, SEERA and HEERA, and acts as an appellate body to hear challenges to decisions by its agents and Administrative Law Judges (ALJ).

The Division of Administrative Law houses PERB's Administrative Law Judges (ALJ). The ALJ holds informal settlement conferences on the unfair labor practice cases. No records are kept on these conferences in an effort to mediate disputes. However, if no agreement is reached, another ALJ conducts a formal hearing, maintains a record and issues written findings and legal conclusions that are binding on all parties. If a party disagrees with the ALJ's decision in the formal hearing, the decision can be appealed to the Board. If one party still disagrees with the Board's decision, the Board's decision can be appealed to the State Appellate Court.

There were 92 Board decisions in the 1985-86 reporting year. Only eight were appealed to the State Appellate Court.

In the 1985-86 reporting period there were 58 proposed decisions on Unfair Labor Practices issued by the Administrative Law Judges. Twenty cases (34%) were appealed to the Board and 38 (66%) became final.

In the reporting period from January 1, 1985 through June 30, 1985, a transition reporting period, there were 43 Board decisions and 30 decisions of ALJ's in unfair labor practice cases. Of these decisions issued by ALJ's, 17 cases (57%) were appealed to the Board and 13 cases (43%) became final.

The General Counsel is the Board's chief legal information officer, and also oversees the agency's divisions of litigation, charge processing, and representation. In litigation, the General Counsel represents the Board when its formal decisions are challenged in court, when attempts are made improperly to enjoin the Board's processes, and when the Board wishes to seek injunctive relief against alleged unfair practices.

The division of charge processing, staffed by regional attorneys in each regional office, is responsible for investigating unfair practices to determine whether they reflect a "prima facie" case of unfair practice. After investigation, regional attorneys resolve unfair practice charges by issuing complaints or dismissals.

The division of representation is headed by the Director of Representation. Its representatives in each regional office include a regional director, labor relations specialist, and support staff. The division is responsible for handling a broad range



PERB maintains a sophisticated computerized Management Information System to track cases and allocate its professional resources. In the San Francisco Regional Office, Richard Dearing works as an Associate Data Processing Analyst.

of representational matters, including bargaining unit configurations, unit modification requests, certification and decertification elections, and elections to approve or rescind organizational security arrangements. The division of representation also handles public notice complaints, requests to certify negotiations disputes to mediation and factfinding, and allegations of noncompliance with PERB orders.

The Division of Administrative Services oversees the technical and support services function. It is responsible for the day-to-day operations of the agency, and for initiating and conducting research. This division conducts training, and arranges and conducts meetings, many of which are held as forums designed to reduce impasses between employers and employees. It maintains liaison with the Legislature and the executive control agencies.

### PERSONNEL

PERB employs 108 persons throughout the State, including permanent personnel, temporary employees and student assistants.

In keeping with State of California guidelines, PERB maintains an affirmative action policy as a means of achieving equal employment opportunities, which it has maintained throughout its existence.

PERB's policy prohibits discrimination based on age, race, sex, color, religion, national origin, political affiliation, ancestry, marital status, sexual orientation or disability. As a young agency, PERB believes it is a model in this regard.

PERB continues to maintain and ensure equal employment opportunities for all applicants and employees at all levels in its organization.

PERB activities during each calendar year have been reported in previous annual

reports. In 1985, however, Senator Ralph Dills authored SB 1002 that requires PERB to file its annual report by October 15 on its activities during the preceding fiscal year. In addition to the fiscal year reporting period, this report will also cover PERB's activities during the one-time transition period of January 1, 1985 through June 30, 1985.

### PERB ACTIVITIES

#### Representation

The three acts which PERB administers permit public employees to organize and bargain collectively. The Public Employment Relations Board is empowered to determine appropriate bargaining units for public sector employees within its jurisdiction who wish to exercise their collective bargaining rights. As of July 1, 1986, there were 2,375 bargaining units within PERB's jurisdiction.

The process normally begins when a petition is filed by an employee



PERB pioneered the use of electronic word processing for transcript and decision production. Working in the Los Angeles Regional Office, Stenographer Deidra McKinley edits PERB documents.

organization to represent classifications of employees which reflect an internal and occupational community of interest. If there is only one employee organization petition and the parties agree on the unit description, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for the same unit, an election is mandatory.

If either the employer or employees dispute the appropriateness of a unit or the employment status of individuals within the unit, a Board agent convenes a settlement conference to assist the parties in resolving the dispute. Disputed unit modification cases are handled in the same manner as initial disputes. The Board has historically stressed voluntary settlements and has consistently and offered effectively the assistance of Board agents to work with the parties toward agreement on unit configurations.

If the dispute cannot be settled voluntarily, a Board agent will conduct a formal investigation and/or hearing and issue a written determination which is appealable to the Board itself. This decision sets forth the appropriate bargaining unit or modification of that unit, and is based upon application of statutory unit determination criteria and appropriate case law to the facts obtained in the investigation or hearing.

Once an initial bargaining unit has been established and an exclusive representative has been chosen, another employee organization or group of employees may try to decertify this incumbent representative by filing a decertification petition with PERB. Such a petition is dismissed if filed within 12 months of the date of voluntary recognition by the employer or certification by PERB of the incumbent exclusive representative. The petition is also dismissed if filed when there is a negotiated agreement or memorandum of understanding in effect. Unless it is filed during a window period beginning approximately 120 days prior to the expiration of that agreement.

## Elections

One of PERB's primary functions is to conduct representation elections. PERB conducts initial representation elections in all cases in which the employer has not granted voluntary recognition. 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. The choice of "No Representation" appears on the ballot in every election.

Election procedures are contained in PERB's regulations. The Board agent, or the representative of a party to the election, may challenge the voting eligibility of any person who casts a ballot. In addition, parties to the election may file objections to the conduct of the election. Challenged ballots and objections are resolved through procedures detailed in PERB regulations.

A third type of election occurs in order for employees to approve (under the EERA) or rescind (under the EERA or SEERA) an organizational security or a fair share fee agreement. Organizational security election procedures are similar to those followed in representation elections.

## Impasse Resolution

The agency assists the parties in reaching negotiated agreements through mediation under all three statutes, and then through factfinding under EERA and HEERA, should it be necessary. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time, a Board agent contacts both parties to determine if they have reached a point in their negotiations where their differences are so substantial or prolonged that further meetings would be futile. In cases where there is no agreement of the parties in regard to the existence of an impasse, a Board agent seeks information that helps the Board determine if mediation would be appropriate. Once it is determined that an



impasse exists, the State Mediation and Conciliation Service (SMCS) is contacted to assign a mediator. Under the direction of Ed Allen, the mediation staff has been enormously successful in resolving these contract disputes. SMCS Mediators settle approximately 85 percent of all disputes, resulting in the need for appointment of a factfinding panel in only 15 percent of all impasse cases.

In the event settlement is not reached during mediation, either party (under EERA or HEERA) may request the implementation of factfinding procedures. If the mediator agrees that factfinding is appropriate, PERB provides a list of neutral factfinders from which the parties select an individual to chair the tripartite panel. If the dispute is not settled during factfinding, the panel is required to make findings of fact and recommend terms of settlement. These recommendations are advisory only. Under EERA, the public school employer is required to make the report public within 10 days after its issuance. Under HEERA, the parties are prohibited from making the report public for at least 10 days. Both laws provide that mediation can continue after the factfinding process has been completed.

### Unfair Practices

An employer, employee organization, or employee may file a charge with PERB alleging that an employer or employee organization has committed an unfair labor practice. Examples of unlawful employer conduct would be: coercive questioning of employees regarding their union activity; disciplining employees for participating in union activities; threatening employees for participating in union activities; or promising benefits to employees if they refuse to participate in union activity. Examples of unlawful conduct for employee organizations would be: threatening employees if they refuse to join the union; disciplining a member for filing an unfair labor practice charge against the union; or failing, as an

exclusive representative, to represent its employees fairly in dealing with the employer.

The charge and the underlying evidence is evaluated by a Board agent to determine whether a prima facie case of an unfair practice has been established. A prima facie case exists where the charging party has established each and every legal element necessary to establish a violation of the law.

If the Board agent determines that the charge or evidence fails to make a prima facie case, the party that filed the charge is notified of the Board agent's views. If the charge is neither amended nor withdrawn, the Board agent dismisses it. The charging party then gains the right to appeal the dismissal to the Board.

Investigations by regional Board agents have been successful in minimizing the filing of spurious charges. Many disputes are settled informally without the assistance of PERB. There were 538 unfair practice charges filed in FY 1985-86. Of these, an approximately 87 percent are ultimately withdrawn or dismissed. Of the remaining charges, ten percent were heard by an ALJ and three percent remain active. Approximately fifty percent of ALJ decisions are eventually appealed to the Board. Thus, the informal steps of this process have been successful in reducing the costs to the taxpayer and time to the parties. Further, they have achieved satisfactory settlements.

If the Board agent determines that a charge constitutes a prima facie case, a complaint is issued, and the respondent is given an opportunity to file an answer to the complaint. An ALJ is assigned and calls the parties together for an informal conference. At the informal conference, the contending parties are free to discuss the case in confidence with the ALJ. If a settlement is not accomplished, either party may request a formal hearing.

At the formal hearing, a different ALJ is assigned to hear the case. The ALJ rules on motions and takes sworn testimony and other evidence which becomes part of a formal record. The ALJ then studies the record, considers the applicable law, and issues a proposed decision.

A proposed ALJ decision applies precedential Board decisions to the facts of a case. In the absence of Board precedent, the ALJ decides the issue(s) by applying other relevant legal principles. Proposed ALJ decisions that are not appealed are only binding upon the parties to the case.

If the losing party to the proceeding is dissatisfied with a proposed ALJ decision, it may file a Statement of Exceptions and a supporting brief with the Board. After evaluating the Statement of Exceptions, the Board may: (1) affirm the decision; (2) modify it in whole or in part; (3) reverse it, or (4) send the matter back to the ALJ to take additional evidence.

An important distinction exists between ALJ decisions which become final and decisions of the Board itself. ALJ decisions may not be cited as precedent in other cases before the Board. Board decisions are precedential and not only bind the parties to that particular case, but also serve as precedent for similar issues arising in subsequent cases.

## Litigation

The Board is represented in litigation by its General Counsel. The litigation responsibilities of the General Counsel include:

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

- seeking appropriate interim injunctive relief against alleged unfair practices;
- defending the Board against attempts to block its processes, such as attempts to enjoin PERB hearings or elections;
- defending a formal Board unit determination decision when the Board, in response to a petition from a party, agrees that the case is one of special importance and joins in a request for immediate appellate review;
- submitting amicus curiae briefs in cases in which the Board has a special interest or in cases affecting the Board's jurisdiction.

Chapter 4 contains a sampling of some of the more important litigation in which PERB has been involved during the past ten years.

## Financial Statements

PERB requires recognized or certified employee organizations covered by EERA and HEERA to file an annual financial statement of income and expenditures with the agency no later than 60 days following the close of the organization's fiscal year. Organizations covered by SEERA have 90 days to file such a report. Any employee may file a statement alleging noncompliance with this regulatory requirement. Upon receipt of such a filing, PERB agents investigate the employee allegation in order to determine its accuracy. If necessary, PERB could take action to bring the financial statement into compliance with law.

## Bargaining Agreements

PERB regulations require that employers file, with PERB's regional offices, a copy of its agreements or amendments to those agreements (contracts) within 60 days of the date they became effective. These contracts are maintained on file for viewing by the Board, employers, employees, the Legislature, and the public.

## Advisory Committee

The Advisory Committee to the Public Employment Relations Board was organized in the winter of 1980 to assist PERB in the review of its regulations as required by AB 1111. The Advisory Committee consists of over 50 people from throughout California. They represent management, labor, law firms, negotiators, professional consultants, the public and scholars.

In addition to reviewing PERB's regulations, the Advisory Committee has assisted the Board in its search for creative ways in which its professional staff could cooperate with parties promoting peaceful resolution of disputes and contributing to greater stability in employer-employee relations. This dialogue has aided PERB in reducing case processing time by such improvements as substitution of less costly investigations in preparation for formal hearings in certain public notice cases.

A member of the Board attends Advisory Committee meetings. This direct participation with the Advisory Committee ensures communication between policy makers and its constituents.



PERB receives a variety of inquiries about collective bargaining from legislators, the press, employees, employee organizations, and parents. Mary Anne Semeria is the Receptionist in the Sacramento main office.

## **CHAPTER THREE**

### **LEGISLATIVE HISTORY OF PERB**



## **CHAPTER THREE**

### **Legislative History of PERB**

The Public Employment Relations Board was established by legislative enactment. Its duties, responsibilities, and organization have also been directed by the Legislature. PERB's present involvement in California public sector labor relations can best be seen as primarily a result of an evolutionary legislative process. The highlights of this are presented herein.

#### **The George Brown Act**

The George Brown Act of 1960 established a process to determine wage levels for public employees, including State employees. The Act involved the Legislature, the State Personnel Board and non-exclusive employee groups. Each year the State Personnel Board would conduct a study of employee wages and benefits. Using this information, along with input from the employee groups, Legislature and the Governor, a budget item would result reflecting a salary increase for State employees. The Brown Act required the State, as management, to meet and confer with non-exclusive employee organizations to hear their salary requirements.

#### **The Winton Act**

The Legislature first dealt with the issue of California public sector employer-employee relations in 1965, the year the Winton Act was enacted. The Winton Act required public school employers to "meet and confer" with representatives of classified and certificated employee organizations.

The "meet and confer" provision of the Winton Act was strictly limited. Agreements reached under this process could not be incorporated into a written contract, were not binding, and could be modified unilaterally by the public school employer.

#### **Unsuccessful Legislation Leading to EERA**

In 1972, Assembly Resolution No. 51 established the Assembly Advisory Council on Public Employee Relations. This blue ribbon panel recommended the enactment of a comprehensive public employment bargaining law. Several legislative attempts were made to enact this panel's recommendations, each attempt failing to become law.

In 1973, Assembly Speaker Bob Moretti introduced AB 1243 which failed to receive the votes necessary to secure passage. Senator George Moscone introduced SB 400 in 1974 which did not reach the Assembly floor. Senate Bill 1857, authored by Senator Albert Rodda, was debated. Two other unsuccessful efforts were made in 1975, SB 275 (Dills) and AB 119 (Bill Greene and Julian Dixon). Despite these failures, momentum was building which finally led to the enactment of EERA in 1976.

#### **The Educational Employment Relations Act (EERA)**

On January 6, 1975, Senator Albert S. Rodda introduced 160, the Educational Employment Relations Act. Several amendments were made by the author in an attempt to achieve a consensus bill that both employers and employee organizations would support. This measure passed the Legislature on September 8, 1975, and was signed into law as Chapter 961 (Statutes of 1975) by Governor Edmund G. Brown Jr. on September 22, 1975.

The Act created the Educational Employment Relations Board (EERB). The EERB was the quasi-judicial agency created to implement, legislate, and settle disputes in collective negotiations for California's public school employers

and employees. The three-member Board assumed its responsibilities in April 1976.

### **State Employer-Employee Relations Act (SEERA)**

Senate Bill 839, authored by Senator Ralph C. Dills, was enacted on July 1, 1978, as Chapter 1159 of the Statutes of 1977. SEERA extended EERB coverage to State civil service employees. The Act also renamed EERB, the Public Employment Relations Board (PERB).

The Act contained additional provisions for the exclusive representation by employee organizations, the filing of unfair practice charges, and the use of mediation for impasse resolution. SEERA also requires the State employer to "meet and confer in good faith." Memoranda of Understanding supersede specified code sections under the provisions of SEERA.

### **Higher Education Employer-Employee Relations Act (HEERA)**

Assemblyman Howard Berman authored AB 1091, the Higher Education Employer-Employee Relations Act, which became law on September 13, 1978. The Act took effect in July 1979. HEERA covers all employees of the University of California, the California State University and College System, and the Hastings College of Law.

HEERA extends authority similar to that exercised by the Board under EERA and SEERA. This authority includes the:

- determination of appropriate bargaining units;
- conducting of representation elections;
- decision of whether or not disputed subjects fall within the scope of representation;
- appointment of factfinders and mediators in impasse situations;

- investigation and resolution of unfair practice charges;
- bringing of actions in court to enforce its decisions.

### **FURTHER LEGISLATION AFFECTING PERB**

#### **Collective Bargaining**

Assembly Bill 1496 (Dixon) became Chapter 632 of the Statutes of 1977. The effect of this legislation was to specify that an employee organization shall have standing to sue in any action instituted by it as the exclusive representative on behalf of one or more of its members.

Senate Bill 2030 (Chapter 816 of Statutes of 1980) was authored by Senator Albert Rodda, and became effective on January 1, 1981. This bill provided that no employee shall be required to join, maintain membership in, or financially support any employee organization as a condition of employment when there is an objection based on bona fide religious tenets. The employee may be required to pay sums equal to the service fee to a non-religious, non-labor organization, or tax exempt charitable fund. The employee may also be required to pay a fee for representation.

AB 1977 (Chapter 1175, Statutes of 1980) authored by Assemblyman Peter Chacon in 1980, authorized public school employers to make deductions from the salaries of classified employees for the payment of service fees as required by an organizational security arrangement. These deductions may be made regardless of whether an employee is a member of the employee organization certified as the exclusive representative.

Assemblyman Dave Elder sponsored AB 1245 (Chapter 521 Statutes of 1984). This law specifically includes the subject of employer payments into the State

Teachers Retirement System (STRS) of member contributions within the scope of representation.

In 1984, Senator Ralph Dills authored SB 1302 which became Chapter 1454 of the Statutes of 1984. This bill prohibits the Governor and the recognized employee organization from meeting and conferring, or reaching agreement, on any provision which would reduce health benefit coverage for retired State employees.

### **Memorandum of Understanding**

Several pieces of legislation have been enacted which pertain to memoranda of understanding (MOU) between State employers and recognized employee organizations. Essentially, these laws provide that MOU's shall supersede various Government Code and Education Code sections in the event of conflict between the two. These bills include: AB 3053 (Berman) of 1978; AB 1607 (Berman) of 1979, AB 2685 (Gage) of 1980; SB 668 (Dills) of 1981; and SB 183 (Russell) which passed in 1983.

### **Duties, Responsibilities and Organizations**

Two pieces of legislation became law in 1977 which affected PERB's duties and responsibilities. The first bill, by Assemblyman Howard Berman (AB 247, Chap. 1084), transferred the responsibility for determining the adequacy of "proof of majority support" from the public school employer to PERB. The second bill SB 541 by Senator Dills (Chap. 185, statutes of 1977), required all employee organizations to file annual financial reports with PERB.

In 1980, two more bills were enacted by the Legislature which impacted PERB. SB 1860 by Senator Rodda (Chapter 1088 of the Statutes of 1980) increased the size of the Board from three to five members. In that same year, Assemblyman Tom Bates authored, and the Legislature approved, AB 2688 which deals with court enforcement of Board orders. It requires PERB to respond to any inquiry regarding enforcement of one of its orders within 10 days. It also requires the Board to seek enforcement upon request by an involved party.

## **CHAPTER FOUR**

### **MAJOR BOARD AND COURT DECISIONS**

## CHAPTER FOUR

### MAJOR BOARD AND COURT DECISIONS

In the ten years of its existence, the Public Employment Relations Board has been called upon to make many significant quasi-judicial decisions. Many precedential State court decisions concerning PERB statutes have been published. Some of the most important of these decisions are summarized in the following pages in chronological order.

#### DECISIONS DIRECTLY RELATING TO PERB

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Peralta Community College District  
(1978) PERB Decision No. 77

This case stands for the proposition that all classroom teachers are to be in a



The success of any complicated legal office relies upon the dedication of skilled and experienced support staff. Marie Macaulay works with General Counsel Jeff Sloan as Executive Secretary.



Board Members are assisted in their decision making by competent legal staff. Joe Wender is a Legal Advisor to Board member Bill Craib.

single unit unless the criteria of appropriateness set forth in section 3545(a) cannot be met. The burden of proving the inappropriateness of a comprehensive unit is on the party opposing it.

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San Diego Teachers Assn. v. Superior Court (1979) 24 Cal.3d 1

In the context of a public employee strike, the court annulled contempt orders against the exclusive representative and its president on the ground that the District failed to exhaust its administrative remedies before PERB before going to court for an injunction against the strike. PERB has exclusive initial jurisdiction to determine whether a strike is an unfair practice and what, if any, remedies should be pursued, including



injunctive relief. Strikes are not per se unlawful under the EERA and automatic injunctive relief may be counterproductive.

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Rocklin Teachers Professional Association  
(1980) PERB Decision No. 124

The Board articulated those obligations imposed on the exclusive representative by the duty of fair representation. A breach of the duty of fair representation occurs when a union's conduct toward a member of the bargaining unit is arbitrary, discriminatory or in bad faith. However, the failure to negotiate a particular item is not necessarily a breach.

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Rio Hondo Community College District  
(1980) PERB Decision No. 128

This decision established that a public school employer is entitled to express its views on employment related matters over which it has legitimate concerns, despite the fact that there is no explicit EERA analogy to section 8(c) of the National Labor Relations Act (NLRA). The test to see if there is a violation of EERA section 3543.5(a) is whether the employer communication has or is likely to have the impact of a threat of reprisal, coercion, or promise of benefit.

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Dry Creek Joint Elementary School  
District (1980) PERB Order No. Ad-81

The Board formulated the test to be applied to determine if an arbitration award issued pursuant to a negotiated grievance procedure culminating in binding arbitration is repugnant to the EERA. The Board adopted the standards set forth in Spielberg Manufacturing Co. (1955) 112 NLRB 1080 to determine if it should defer to an arbitrator's award:

1. The matters raised in the unfair practice charge must have been presented to and considered by the arbitrator;
2. The arbitral proceedings must have been fair and regular;
3. All parties to the arbitration proceedings must have agreed to be bound by the arbitral award; and
4. The award must not be repugnant to the EERA.

While the Board will not necessarily find an award repugnant because it would have provided a different remedy, it may find an award repugnant if it fails to protect the essential and fundamental principles of good faith negotiations. Here, after finding that the employer made a unilateral change, the arbitrator failed to return the parties to the status quo ante, so the Board found his award repugnant.

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Oakland Unified School District v. PERB  
(1981) 120 Cal.App.3d 1007

The employer violated the EERA by unilaterally changing an administrator of a health plan. This constituted a change in a term and condition of employment within the scope of representation without negotiation. Furthermore, a standard zipper clause in a collective bargaining agreement does not provide the "clear and unmistakable" language necessary to waive the right to press a previously filed unfair practice claim. The Board's broad remedial power was noted.

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Pacific Legal Foundation v. Brown (1981)  
29 Cal.3d 168

The California Supreme Court held that SEERA does not inevitably conflict with the merit system established in

Article VII, section 1, subsection b of the State Constitution and is not unconstitutional on its face. Moreover, there is not an irreconcilable conflict created between the scope of bargaining under SEERA and the jurisdiction of the State Personnel Board.

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Grant Joint Union High School District (1982) PERB Decision No. 196

The Board determined that breaches of the collective bargaining agreement can be unilateral changes violative of section 3543.5(c) when the breach represents a conscious or apparent reversal of a previous understanding - a change in policy, not merely a default in a contractual obligation. A change in policy has a generalized effect or continuing impact upon the terms and conditions of employment of bargaining unit members.

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King City High School District, et al. (1982) PERB Decision No. 197 (review currently pending in the California Supreme Court)

An employee challenged the right of a union to spend his agency fees in certain ways and also challenged various other aspects of the agency fee scheme. The Board concluded that the employee's right to refuse to participate in organizational activities to some extent restricts the Legislature's determination that organizational security arrangements contribute to the stability of employer-employee relations under EERA. Thus, the employee is not required to support activities which are beyond the Association's representational functions. Among the activities which can be supported by agency fees are: lobbying on employer-employee relations and school financing; organizing and recruiting; payment to affiliates, publications on

matters supportable by agency fees; administrative expenses; social activities; representation-related charitable and philanthropic activities.

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Novato Unified School District (1982) PERB Decision No. 210

Addressing EERA section 3543.5(a), the Board clarified the principles articulated in Carlsbad Unified School District (1979) PERB Decision No. 89 by differentiating the test used to determine whether there has been discrimination and reprisals taken by the employer for employee participation in protected activity from whether the test used to determine whether the employer has interfered with employee or employee organization rights.

In a discrimination case, a nexus must be shown between the employer's conduct and the exercise of a protected right. Unlawful motive is the specific nexus required in the establishment of a prima facie discrimination case - it can be shown by circumstantial evidence. An inference of unlawful motivation will be made if the charging party proves that the employer had actual or imputed knowledge of the employee's protected activity, and other factors such as timing, disparate treatment, departure from established procedures, and inconsistent or contradictory justifications will be considered. Once the prima facie case is made, the burden shifts to the employer to prove that its action would have been the same despite the protected activity.

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Modesto City Schools (1983) PERB Decision No. 291

Highlights of this lengthy decision include:

- \* In a work-to-rule situation, it must be determined whether each



activity which employees refuse to perform is required or voluntary. As to voluntary activities, it is then necessary to determine whether discipline imposed for failing to perform constitutes unlawful interference or discrimination. As to required activities, it may be necessary to determine if the discipline is so severe as to evidence improper motivation.

- Unalleged violations will be examined where they are intimately related to the subject matter of the complaint, where the issues have been fully litigated, and where the parties have had a chance to examine and cross-examine witnesses.
- The District may not insist to impasse that the union abandon rights guaranteed under the Act. The union has the right under the Act to represent employees at the informal level of the grievance procedure.
- Statutory impasse procedures are exhausted only when the factfinder's report has been considered in good faith, and then only if it fails to change the circumstances and provides no basis for settlement or movement that could lead to settlement. At that point, either party may decline further requests to bargain, and the employer may implement policies reasonably comprehended within previous offers made and negotiated between the parties. The Board cannot reimpose already exhausted impasse procedures.
- EERA does not expressly outlaw strikes. Moreover, EERA section 3543 authorizes work stoppages as collective actions traditionally related to collective bargaining. However, a pre-impasse exhaustion strike is presumptively unlawful; the

presumption can be rebutted by proof that the strike was provoked by employer conduct and that the employee organization negotiated and participated in impasse procedures in good faith.

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Moreno Valley Unified School District v. PERB (1983) 142 Cal.App.3d 191

The court decided that PERB reasonably interpreted section 3543.5(e) when it determined that, following a declaration of impasse, a unilateral change regarding a subject within the scope of negotiations is a per se violation of the employer's duty to participate in impasse procedures in good faith. Affirmative defenses may apply however. The court rejected the Board's conclusion that such conduct also violated the duty to meet and negotiate in good faith under 3543.5(c).

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San Mateo City School District (Healdsburg Union High School District) v. PERB (1983) 33 Cal.3d 850

The Supreme Court approved the test formulated by the Board for determining whether contract proposals were within the scope of representation (Anaheim Union High School District (1981) PERB Decision No. 177). Under the Anaheim test a subject is negotiable even though it may not be specifically enumerated in section 3543.2(a) if:

1. it is logically and reasonably related to hours, wages or an enumerated term or condition of employment;
2. it is of such concern to both management and employees that conflict is likely to occur and the mediatory influence of collective negotiations is the proper means of resolving the conflict; and

3. the employer's obligation to negotiate would not significantly abridge management's freedom to exercise those managerial prerogatives (including matters of fundamental policy) essential to the achievement of the District's mission.

The Court also upheld PERB's interpretation of section 3540 on supersession, which construed the statute to prohibit negotiations only where provisions of the Education Code would be "replaced, annulled or set aside" by the language of a proposed contract clause. Unless the statutory language of the Education Code clearly evidences an intent to set an inflexible standard or insure immutable provisions, the negotiability of a proposal should not be precluded.

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Redwoods Community College District v. Public Employment Relations Board (1984) 159 Cal.App.3d 617

An employee is entitled to participatory union representation (Weingarten rights) at an investigative interview conducted by a high level administrator concerning the employee's work performance, even though the employee could not reasonably expect discipline to result from the interview. However, the right of representation under the EERA should be granted, absent the discipline element, only in highly unusual circumstances.

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Public Employment Relations Board v. Modesto City School District (1982) 136 Cal.App.3d 881 (see Modesto, PERB Decision No. 291, above)

This case arose when the District sought a temporary restraining order and a preliminary injunction prohibiting a strike against the District by a teacher association. The District had already filed an unfair practice with PERB against the

Association accusing it of violating Government Code section 3543.6(a), (b), (c), and (d) by striking, and had requested PERB to seek injunctive relief against the Association. Similarly, the Association had already filed unfair practice charges against the District accusing it of violating sections 3543.5 and 3453.1 by refusing to meet and negotiate with the Association over the concessions and new proposals it offered following the exhaustion of statutory impasse procedure, and by unilaterally changing some terms and conditions of employment.

The Court of Appeal held that EERA expressly provides for initial exclusive jurisdiction in PERB to decide what is an unfair practice in situations where the conduct at issue is arguably either protected or prohibited by the EERA. Such jurisdiction, the court held, extends to strike occurring after statutory impasse procedures have been completed.

The court also articulated the test to be applied in determining whether to grant an injunction sought by PERB. The court held that a trial court may grant injunctive relief in a labor case at the request of PERB where there is reasonable cause to believe that an unfair practice has been committed and where the relief sought is just and proper. Concluding that the relief sought by PERB met this test, the court upheld a superior court order which had granted two injunctions at PERB's request.

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The Regents of the University of California v. Public Employment Relations Board (1986) Supreme Court, 41 Cal.3d 601

The University clinics, institutes, and hospitals conducted residency programs in which housestaff positions were filled by student employees. The employees' association and the University disagreed about whether these members of the housestaff were employees who were therefore entitled to collective bargaining

rights under the provisions of HEERA. The association filed an unfair practice charge with PERB, and upon review the Board held that housestaff were employees under the statutory definition (Gov. Code section 3562(f)).

The University sought court review of the Board's decision (PERB Decision No. 283-H). After the District Court of Appeal reversed the Board, the Board obtained review from the California Supreme Court.

The Supreme Court upheld the Board's decision, concluding that substantial evidence in the record as a whole supported the Board's findings and conclusions that housestaff educational objectives were subordinate to the services they performed, and that the purposes of HEERA would be furthered by affording coverage to housestaff.

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Regents of the University of California v. Public Employment Relations Board (1986) 182 Cal.App.3d 71

William H. Wilson, as an individual, and on behalf of the American Federation of State, County and Municipal Employees (AFSCME), filed an unfair practice charge alleging that the University's refusal to permit AFSCME from distributing organizational literature to employees through the internal mail system violated rights guaranteed to employees under the Act.

PERB held that the University's total prohibition on the use of the internal mail system was not reasonable and ordered the University to allow access to the union. (PERB Decision No. 183.)

The University appealed the Board's decision to the Court of Appeal arguing that granting free access to the internal mail system would violate federal postal laws. The matter was remanded to the Board (see 139 Cal.App.3d 1037), and

again the Board found that the total ban on the free use of the internal mail system was unreasonable. The University again appealed the Board's decision. The appellate court affirmed the Board's decision holding that the "Letter of the Carrier" exception to the federal postal law allowed the HEERA-mandated delivery of union mail through the University's internal mail system. The California Supreme Court denied review of this case.

## OTHER DECISIONS OF INTEREST

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County Sanitation District No. 2 of Los Angeles County v. Los Angeles County Employees Association, Local 660 (1985) 38 Cal.3d 564

Negotiations between the district and the association reached an impasse and a strike ensued. The district petitioned the court for an injunction which was granted. The association continued the strike eleven more days before accepting a tentative agreement identical to the district's offer prior to the strike. The district then initiated action for tort damages.

The trial court awarded damages and prejudgment interest to the district. The State Supreme Court reversed stating that the common law prohibition against all public employee strikes is no longer supportable. It was concluded that it is not unlawful for public employees to strike unless it has been determined that the work stoppage poses an imminent, substantial threat to public health or safety.

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Chicago Teachers Union v. Hudson, U.S. Supreme Court (1986) \_\_ U.S. \_\_ [89 L.Ed.2d 232]

Several teachers who were represented by

the union, but were not members, objected to the use of their agency fees for political or organizational purposes. The union had an established procedure for settling such disputes, but when this procedure failed to result in accommodation the union petitioned the court for relief.

The Supreme Court held for the defendants. In doing so the court established three constitutional requirements for the collection of agency fees. These requirements were established to protect the first amendment rights of non-members by insuring that funds were not used, even temporarily, for political or organizational purposes. The three requirements are:

- An employee organization must supply adequate justification for the basis of the amount of the fee.
- Objectors to the fee must be given a reasonably prompt opportunity to challenge the amount before an impartial decision-maker.
- Advance reduction of fees, or an escrow arrangement, must be established to preserve disputed funds while challenges are pending.

#### **BOARD DECISIONS ISSUED DURING CURRENT REPORTING PERIOD**

A listing of Board decisions rendered from January 1, 1985 through June 30, 1986 may be found in Appendix A.

## **CHAPTER FIVE**

### **RESEARCH AND REPORTS**



## CHAPTER FIVE

### RESEARCH AND REPORTS

From time to time, the Legislature has asked PERB to conduct research on various subjects related to employer-employee relation. In 1983, legislation by Senator John Garamendi (Chapter 1258, Statutes of 1984) required PERB to conduct a study on how to contain health care costs. The 1985 study is being updated in 1986, however, a summary of the Board's 1985 study follows.

#### Health Care Cost Containment Study

The State of California, its schools and its higher education system, like all other employers in the last decade, have been faced with rapidly increasing health care costs. In an effort to provide employers with information on containing these costs, the Legislature and Governor, through Senate Bill 922 of the 1983 legislative session, directed PERB to:

collect, analyze, and compare data on health benefits and cost containment in the public and private sectors, and to make recommendations concerning public employees. The recommendations may take into consideration health benefit cost containment issues in public and private employment. . . .

This directive was initiated in an effort which is unique to dispute resolution agencies. It became apparent to PERB that the health care issue had become one of the most frequent causes of negotiating failure. This study was conceived as an attempt to reduce conflict in the public sector labor relations arena.

Spiraling health care costs were quickly absorbing public resources that might otherwise have been available for wage increases or other educational purposes. By providing adequate information

concerning salient bargaining issues in the health care area, it was PERB's hope that potential disputes could be resolved by the bargaining parties before they became a case load statistic for the agency.

In 1984, PERB took steps to fill the health care information void by completing the first-ever health care cost containment survey of local public employees (cities, counties, school districts and special districts). The 1984 survey established a baseline of data on health benefits plans, health care costs, and health care cost containment activities. In addition, this baseline enabled some comparisons to be made among public sector employers. This data and a wealth of other cost containment information was made available to all public employers and employee organizations.

In 1985, a second survey was conducted among local public employers similar to the one conducted in 1984. In 1985, PERB also conducted a private sector health care cost containment survey of members of the California Manufacturers Association, which provided an opportunity for comparisons to be made between public and private employers with regard to health care costs and cost containment activities.

The two surveys conducted in 1985 generated three reports: the public sector active report, public sector retiree report, and the private sector report. All three reports are available from the PERB Headquarters office in Sacramento.

The third and final health care cost containment survey of local public employers and the second survey of members of the California Manufacturers Association will be conducted in 1986. The primary purpose of these surveys will be to evaluate the effectiveness of various cost containment activities.

The first research report developed by PERB to provide health care information to employers is entitled "Preferred Provider Organizations: A Guide for Public Employers and Employee Organizations". Preferred Provider Organizations (PPO's) were the subject of the first report because they are viewed by many as a major cost containment strategy and their development and marketing in California was accelerating. PERB discovered that limited information existed from the buyer's perspective on this topic although employers and employee organizations were being asked by major purveyors of health insurance to consider this alternative as a way of reducing health care costs.

PERB's intent has been not to promote any particular cost containment activity or strategy, but rather to provide as much information as possible on cost containment activities undertaken by public employers and employee organizations.

#### **Discipline, Short of Dismissal**

In public school districts employee discipline has been traditionally difficult to effect short of discharge. Senate Bill 813, of 1983 addressed this issue, among other educational reform issues. This bill, known as the Hughes-Hart Educational Reform Act, allowed provisions for suspension to be incorporated into contracts between public school employers and employee organizations.

SB 813 also mandated that PERB produce a report to the Legislature on the extent to which suspension provisions have been incorporated into collective bargaining agreements since the enactment of the Reform Act. This report was submitted to the Legislature on July 1, 1985.

PERB researched 394 contracts on file, representing 66 percent of public school employees. It was found that the suspension provision had met with a mixed reception. Only 17 percent of the contracts examined contained a specific

reference to suspension. An additional 34 percent contained some form of reference to suspension, or discipline short of discharge.

#### **Other Research**

The Health Care Cost Containment and Suspension Provision research were implemented as a direct result of specific legislation. Beginning in fiscal year 1985-86, the Legislature authorized a budget change to fund an ongoing research and communication program. This program has been implemented by PERB's staff and its Advisory Committee. During this reporting period three research projects were initiated under this program.

#### **Contract Reference File**

On May 1, 1986, PERB entered into an interagency agreement with the California Department of Industrial Relations (DIR), Division of Labor Statistics and Research (DSLRL) to develop a Contract Reference File. The Department of Industrial Relations, Division of Labor Statistics and Research (DIR-DSLRL) is to encode the contents of public education collective bargaining agreements.

A coding system, guide, and instruction manual are being provided by DIR-DSLRL. They are meeting with an advisory committee, training contract coders, and test-coding 260 educational bargaining unit contracts. Results will be analyzed and edited, and a summary report will be produced on September 30, 1986. Following this, a pilot project encompassing all agreements will be initiated.

#### **Financial Statement Audit**

The agency is presently undertaking a study to determine the extent to which California public sector employee organizations are complying with the statutes requiring the annual filing of financial statements.

The results of this study will permit PERB to ensure full compliance with the statutory and constitutional mandates.

### **Impasse Resolution Study**

In June, 1986, PERB signed a standard agreement with the University of California to provide public service survey, communication and training services regarding factfinding under EERA and HEERA. Included were a survey of participants in the factfinding process, production of a resource book on factfinding under EERA and HEERA, and a conference to review these products with factfinders and practitioners. The prime contractor is Policy Analysis for

California Education (PACE), a nonprofit, independent educational policy research center; also involved is the Institute of Industrial Relations, California Public Employee Relations Program. These two neutral, highly experienced sources of expertise and judgment with links to both education and labor relations communities will be key advisors in the development of PERB's research program.

PERB has a continuing, annual program need for the training of factfinders under EERA and HEERA. Practitioners and parties before PERB expect to participate in training conferences on factfinding. This budget provides funds for factfinding training and conferencing.

## **CHAPTER SIX**

### **SUMMARY OF PERB'S FIRST TEN YEARS**

## CHAPTER SIX

### SUMMARY

The first ten years of PERB's existence has been a period of growth and maturity. Increasing numbers of employers and employees have come under the purview of the agency. Unfair practice and representation procedures have been adapted and refined. Research into critical issues concerning public sector labor relations in California has taken on increased importance. The courts, the Legislature, PERB's constituency, and the agency itself have all been involved in this process.

The Public Employment Relations Board is primarily settlement oriented. For instance, approximately 81 percent of unfair practice charges filed are settled informally each year. Of the 19 percent which are settled at the formal level, only about one-third of the ALJ decisions

are appealed to the Board. Only one in nine Board decisions are the subject of Court of appeal proceedings.

With increased success in achieving voluntary and informal settlements, the agency's case processing time has decreased significantly. The agency itself has adapted its regulations and procedures to further decrease this case processing time. The result has been that the average time for unfair labor practice cases has been significantly reduced.

The next ten years promise to be a time of further evolution. As long as PERB's constituency, the State courts, and the Legislature remain involved, the presence of PERB as a quasi-judicial agency should ensure increasingly stable public sector labor relations in California.



The success of the Public Employment Relations Board in its first 10 years is primarily a result of its people. Jean Thomas, left, is an Administrative Law Judge, and Betty Snow is a Senior Legal Typist, both in the Los Angeles Regional Office.



Phyllis West is the Office Technician for the General Counsel in the Sacramento main office.



## **CHAPTER SEVEN**

### **THE NEXT TEN YEARS**

11

## CHAPTER SEVEN

### THE NEXT TEN YEARS

This year marks the tenth anniversary of the enactment of the legislation which created the Public Employment Relations Board. It is appropriate to briefly discuss the future role of PERB in labor relations.

Public sector labor relations has grown faster than observers had predicted. Public employee unionism and consequent collective bargaining have grown rapidly in the last ten years. Indeed, public sector growth has been the leading edge of new activity for the labor movement as a whole for the past two decades. The diversity in approaches to labor relations at the state, school and higher education levels has been rich. Much experimentation has taken place with regard to design of bargaining units, determining the scope of bargaining and handling inevitable bargaining impasses.

The relative smoothness with which the parties resolve disputes and reach agreements is a tribute to the many persons who represent labor and management under the three laws administered by PERB.

Likewise, the fact that the EERA, SEERA and HEERA have had few amendments has resulted in a remarkable stability. Dramatic changes in the law create considerable uncertainty and instability. Parties tend to press cases they might otherwise have settled had the "rules of the game" been more settled. This stability is a credit to the Legislature, the Governor, employee and employer organizations and those who implement the laws on a daily basis.

California's population is projected to grow from twenty-six million to thirty million in the next ten years. In this context, it remains a crucial goal to

maintain a responsible public sector labor relations system. At the heart of this system is an independent and impartial group of professional neutrals who decide the controversial issues with consistency and integrity on the basis of merit. As the result of this, collective bargaining produces better government to put its house in order, to regularize its procedures, and to consider what should be its personnel practices.

The next ten years presents PERB with a challenge. Successful administration of EERA, SEERA and HEERA will serve to minimize the potential for labor relations strife with the concomitant loss of productivity and morale. To this end PERB's goals are to:

- maintain and improve both the reality and appearance of neutrality,
- dispose of all cases as quickly and as cost-efficiently as possible,
- settle employment relations disputes,
- investigate and adjudicate all cases in a fair and objective manner and provide effective remedies where appropriate, and
- encourage communication and development of expertise within the labor relations community by providing appropriate services on issues relevant to PERB's mission.

Success in these goals will help California maximize the opportunities for prompt, rational and reasonable solutions to the problems, pressures and disputes which inevitably arise in all areas of human interaction.

## **APPENDIX A**

**A LISTING OF BOARD DECISIONS RENDERED  
FROM JANUARY 1, 1985 THROUGH JUNE 30, 1986**

## PUBLIC NOTICE CASES

### EERA

1. Howard O. Watts v. Los Angeles Community College District (2/28/85) PERB Decision No. 489

The Board held that the District did not violate its public notice obligation by sunshining a written proposal which required oral clarification at a public meeting and where such clarification was provided.

2. Howard O. Watts v. Los Angeles City and County School Employees Union, Local 99 (Service Employees International Union) (2/28/85) PERB Decision No. 490

The Board held that the Union did not violate its obligation to provide a wage proposal suitable for sunshining where the proposal required and received oral clarification at a public meeting of the school board.

3. Howard O. Watts v. Los Angeles Community College District (3/14/85) PERB Decision No. 494

The Board held, relying upon Los Angeles Unified School District (1984) PERB Decision No. 405, that the Board agent properly dismissed an allegation that complainant was not given adequate time to address the school board on the negotiating proposals. The investigation revealed that complainant did not use the time to speak to the merits of the proposals, so the District did not have to extend the time for speech.

4. Howard O. Watts v. Los Angeles Community College District (5/7/85) PERB Decision No. 506

The Board held that the charge was properly dismissed after finding that the District voluntarily complied with

the public notice provisions regarding the presentation of its school calendar proposal.

Pursuant to PERB regulations 32920(b)(4) and 32920(g), voluntary compliance is an appropriate means by which to resolve a charge and a Board agent may dismiss such a charge on receipt of proof that respondent has so complied.

5. Howard O. Watts v. Los Angeles Community College District (10/2/85) PERB Decision No. 527

The Board reversed the regional attorney's dismissal of a charge alleging that the District violated the public notice statute when its board adopted a "resolution" stating that the District's policy in wage negotiations would be to pursue "comparable worth" wage adjustments. The Board held that the "resolution" qualifies as an initial proposal. However, it is not clear from the record whether the District actually failed to present the resolution to the public. The case is therefore remanded to the regional office for further investigation.

### HEERA

- Howard O. Watts v. California State University (3/14/85) PERB Decision No. 493-H

The Board found that the University trustees did not illegally delegate negotiations to a committee of staff.

## ADMINISTRATIVE APPEALS

### EERA

#### A. DEFERRAL TO ARBITRATION

California School Employees Association v. Merced Union High School District (12/12/85) PERB Order No. Ad-150

The Board denied the District's appeal from an order denying its request to defer an unfair practice charge to arbitration where its exceptions related to the merits of the charge rather than the propriety of the ALJ's application of the Board's deferral policy.

#### B. UNFAIR PRACTICE PROCEDURE

1. Alum Rock School District v. California School Employees Association and Teamsters, Local No. 165 (8/6/85) PERB Order No. Ad-147

Review of an administrative decision that dismissed, as untimely, an appeal of a decertification election decision. The Board reversed the dismissal after finding extraordinary circumstances that excused the late filing. The Teamster's attorney deposited a certified mail appeal in the U.S. Mail at Sacramento's main post office prior to midnight on April 18, which experience showed would result in the document receiving a post-mark of that date. In this case, however, it was postmarked April 19. PERB found this to constitute extraordinary circumstances.

2. California School Employees Association v. Wheatland School District (11/26/85) PERB Order No. Ad-149

The Board rejected CSEA's appeal of the executive director's rejection of an untimely appeal of a dismissal arguing that extraordinary circumstances prevented the timely filing when the truck used by its mail courier broke down, and then later when the courier service forgot to mail the appeal. After the truck broke down, the Association became obligated to file the appeal as soon as possible on discovery of the breakdown. The courier's action in forgetting to mail the appeal does not constitute an extraordinary circumstance that would excuse the Association from that prompt filing.

3. Tony Petrich v. Riverside Unified School District (12/13/85) PERB Order No. Ad-152

Citing section 32215 of the Board's Regulations, Charging Party Tony Petrich requested that the Board direct the administrative law judge to transfer the records of hearings to the Board for decision by the Board itself. The only reasons for the request were the significance he attached to the legal issues raised by this case, and his unsupported suspicion as to the ALJ's neutrality. The Board found that these reasons were insufficient to justify departure from its normal procedures which, in any case, were adequate to protect Charging Party's interests.



### C. UNIT MODIFICATION

Tony Petrich and California School Employees Association v. Riverside Unified School District (12/23/85)  
PERB Decision No. 148 and 148a

The Board affirmed the dismissal of a unit modification petition filed by an individual employee which sought to remove a group of employees from an existing wall-to-wall classified unit. PERB regulations require that a unit modification request be filed by an employer or Board certified employee organization.

### SEERA

#### A. DECERTIFICATION

California Association of Psychiatric Technicians v. State of California (Dept. of Personnel Administration)  
(4/11/85) PERB Order No. 151-S

The Board upheld the general counsel's determination to lift the stay of the ballot-counting in the election for decertification filed by the California Association of Psychiatric Technicians. In making its decision, the Board considered not only the unfair practice complaints that existed at the time of the general counsel's determination, but also the charges the Board had ordered included as the result of its Decision No. 542-S. The previously established standard of review of a Board agent's decision to dissolve the election block was reaffirmed, i.e., whether the agent abused his/her discretion, whether the conclusions reached were supported by facts developed during the course of a properly conducted investigation, and whether the order was the result of a sufficient investigation and analysis of the allegations of the complaint and the potential impact on the employees in the unit.

### B. DEFERRAL TO ARBITRATION

J.D. Dixon v. State of California (Department of Developmental Services) (4/11/85) PERB Order No. 145-S

Respondent State employer moved for dismissal of employee's unfair practice charge on grounds that the matter should be deferred to the contract grievance procedure, which culminates in binding arbitration. Charging Party admits that contract language covers the matter at issue, but argues that deferral is nevertheless inappropriate under the "futility" language of SEERA section 3514.5(a). Evidence submitted by Charging Party shows that he is a dissident member of the exclusive representative and has campaigned vigorously against the officials of that organization. The Board held that the evidence of Charging Party's conduct is insufficient to show that his exclusive representative will not represent him in an arbitration proceeding. The charge is therefore deferred to the grievance procedure.

### UNFAIR PRACTICE CASES

### EERA

#### A. AGENCY FEE

McFarland, et al. v. Washington Unified School District (12/16/85)  
PERB Decision No. 549

Five employees of the Washington Unified School District alleged that the District violated EERA by executing a contract that recognizes more than one exclusive representative and requires all members of the bargaining unit to pay a representational fee equal to the combined dues of the Washington Education Association (WEA),

California Teachers Association (CTA), and National Education Association (NEA). Charging parties further alleged that this fee exceeded the cost of collective bargaining and contract administration incurred by WEA, asserting that significant portions of this fee would be used to finance political, social and ideological activities as well as other activities with which the charging parties disagreed and from which they would derive no benefits.

The Board affirmed the ALJ's dismissal of the charge and complaint, prior to a formal hearing, because the allegations did not state a prima facie violation of the EERA.

#### B. ATTORNEYS FEES

El Dorado Union High School District v. California School Employees Association (Ponderado Chapter No. 267) (3/14/85) PERB Decision No. 495

The Board held that the Association's threat to file a grievance, and its actual filing of an unfair practice charge, did not violate the EERA or repudiate the collective bargaining agreement. The proper response to an allegedly meritless unfair practice charge is to seek attorney's fees in that case and not respond with a cross-unfair practice complaint.

#### C. BUSINESS NECESSITY — DEFENSE TO REFUSAL TO BARGAIN CHARGE

California School Employees Association (and its Pleasant Valley Chapter No. 504) v. Pleasant Valley School District (2/27/85) PERB Decision No. 488

The Board affirmed the ALJ's finding that the District unilaterally changed

the hours of work for instructional aides without negotiating with the exclusive representative. The Board also affirmed the ALJ's determination that the unilateral change was not excused by the District's claimed business necessity defense.

#### D. CONTRACT ENFORCEMENT/INTERPRETATION

##### 1. Victor Valley Teachers Association v. Victor Valley Union High School District (2/15/85) PERB Decision No. 487

The Board affirmed the ALJ's finding that the District neither breached the collective bargaining agreement nor changed its past practice when it implemented the master's equivalency program. The Board also affirmed the ALJ's determination that a separate reprisal allegation was not properly before the ALJ because it was neither included in the charge nor fully litigated at the formal hearing.

##### 2. Eureka Teachers Association v. Eureka City School District (10/8/85) PERB Decision No. 528

The Board dismissed a charge filed by the Association which alleged that the employer refused to apply a newly-negotiated agency fee clause in the contract to temporary teachers who had an employment relationship with the District prior to July 1, 1983, the effective date of the agency fee provision. The Board, noting that the ALJ ruled that the dispute was purely a contractual one, dismissed the charge because there was no evidence presented to show that the District unilaterally changed the existing policy.

#### E. DEFERRAL TO ARBITRATION

Oakland School Employees Association v. Oakland Unified School District (12/4/85) PERB Decision No. 538

The Board found that an arbitrator's award was not repugnant to the Act. Therefore, EERA section 3541.5(a)(2) precluded issuance of a complaint.

#### F. DISCRIMINATION

1. James F. Hamm v. Santa Clara Unified School District (4/11/85) PERB Decision No. 500

The Board upheld the ALJ's finding that the District discriminated against teacher James F. Hamm because of his protected activity. The District contended that the ALJ had improperly allocated the burden of proof by shifting the burden to the District to prove that it would have transferred Hamm in any case, without the charging party having first established a prima facie case. The Board disagreed, finding that the ALJ had correctly applied the Board's Novato test, in conformity with the NLRB's Wright Line test, as upheld by the U.S. Supreme Court in National Transportation Management (1983) 113 LRRM 2857.

2. Rachael Lara and California School Employees Assn. (and its Santa Paula Chapter No. 497) v. Santa Paula School District (5/7/85) PERB Decision No. 505

The Board affirmed the ALJ's proposed decision holding that the District discriminated against Rachael Lara because of her protected activities by transferring her to another school. The Board also held that distribution of a letter by Lara to other teachers

(indicating that she would no longer perform certain duties) was not protected activity. The letter of reprimand given to Lara by the District was not a disproportionate penalty and no inference of discriminatory treatment can be shown.

The Board denies the District's request to accept the late filing of its response to CSEA's exceptions finding that as CSEA complied with PERB Regulation 32142.

#### G. DUES DEDUCTION

San Mateo Community College Federation of Teachers, Local No. 1493 v. San Mateo Community College District (12/13/85) PERB Decision No. 543

The union won a decertification election on May 18, 1982, thereby replacing another organization as the exclusive representative of teachers. Despite the election victory, the District refused to honor the union's June 2 request to deduct membership dues from paychecks of members so authorizing. The District made no dues deductions from paychecks issued at the end of June, July or August.

The Board held that the District denied employee organization rights guaranteed at EERA section 3543.1(d), thus violating section 3543.5(a) and (b).

#### H. DUTY OF FAIR REPRESENTATION

Robert Glass v. Los Angeles Unified School District (9/30/85) PERB Decision No. 526

The Board adopted the ALJ's decision that dismissed the charge against the employer alleging that the District discriminated against a teacher when he exercised protected rights and that the exclusive representative failed to

represent him in his grievance against the employer because of his activity with a rival union. The Board held that (1) there was a failure of proof that the District repudiated the collective bargaining agreement, and (2) the allegations that the employer berated charging party for protected activity is time-barred. The charge against the union was also dismissed on grounds that the union had no obligation to pursue grievances to arbitration when it reasonably perceived those grievances to be meritless. There was no proof that the charging party was discriminated against.

I. INFORMATION:  
DUTY OF EMPLOYER TO FURNISH

1. Modesto Teachers Association v. Modesto City Schools (1/10/85)  
PERB Decision No. 479

The Board found that the District violated the EERA by failing to provide the Association with "rating sheets" used to evaluate job applicants. The Association requested the rating sheets to aid it in representing grievances filed by two employees who were not selected for transfer opportunities. The Board held that while both raters and job applicants have a constitutionally protected right to privacy which attaches to the information recorded on the rating sheets, that right is not absolute and may be outweighed by countervailing interests.

2. Modesto Teachers Association v. Modesto City Schools (8/26/85)  
PERB Decision No. 518

The Board adopted the ALJ's proposed decision that the Modesto

City Schools and High School District violated EERA section 3543.5(a), (b) and (c) by refusing to provide information relevant to the processing of two individual employee grievances. The decision rejected the District's defenses as to one grievance that the employee already possessed the information in question, and, as to the other, that production of the information would be burdensome and would impinge on the right to privacy of other employees.

As a remedy, the District was ordered to take the affirmative action of providing the requested information on request from the Association, and to refrain from interposing procedural objections of timeliness or res judicata if the Association seeks to reopen the grievances or arbitration. The Board rejected the Association's request for an award of litigation costs.

J. INTERFERENCE

California School Employees Association v. Office of Kern County Superintendent of Schools (10/31/85)  
PERB Decision No. 533

The Board affirmed the ALJ's finding that the District interfered with classified employees' free choice of representation by implying loss of benefits, bargaining "from scratch" and termination of treatment equal to that given teachers, and by encouraging employees to join another organization. The representation election results were set aside and a new election was ordered.



## K. MANAGEMENT PREROGATIVE

California School Employees Association (and its Stanislaus County Chapter No. 668) v. Stanislaus County Dept. of Education (12/31/85) PERB Decision No. 556

The Board affirmed the proposed decision of the ALJ finding that the District's decision to cease direct operation of child development centers for migrant children was not appropriately relegated to the negotiating process. The duty to negotiate would have significantly abridged employer's freedom to cease direct the operation of the federally funded program.

## L. NEGOTIATIONS

Gonzales Union High School District v. Gonzales Union High School District Teachers Association (1/10/85) PERB Decision No. 480

The Board affirmed the ALJ's finding that the Association violated its duty to negotiate by refusing to bargain over the summer and by failing to make counterproposals on certain issues.

The Board denied the District's motion to disqualify the ALJ on basis of bias or prejudice. Factual or legal conclusions adverse to a party's position are insufficient, as a matter of law, to justify disqualification of a Board agent for bias or prejudice.

## M. PRE-HEARING

### DISMISSAL OF CHARGE UPHELD

1. Modesto Teachers Association v. Modesto City Schools (1/16/85) PERB Decision No. 482

The Board affirmed the dismissal of a charge alleging that the District unilaterally altered the evaluation procedures, engaged in

reprisals against one teacher and failed to provide information requested by the Association.

2. California School Employees Association (and its Butte College Chapter No. 511) v. Butte Community College District (3/14/85) PERB Decision No. 498

The Board upheld the dismissal of a charge filed against the District. The Association alleged that the collective bargaining agreement violated Education Code where there was no evidence to that effect.

## N. PROTECTED ACTIVITIES

Cynthia McPherson v. Carlsbad Unified School District (10/15/85) PERB Decision No. 529

The Board dismissed a charge alleging that the District unlawfully discriminated against an employee by refusing to appoint her to a confidential secretary position where charging party failed to carry the burden of proving that the typing she did for an employee organization which did not represent her unit was protected. The Board found no evidence that the typing was in sympathy with, or in support of other union, or was for the benefit of employees in charging party's unit, or was otherwise performed for the purpose of representation.

## O. REMEDIES

1. California School Employees Association (and its Morgan Hill Chapter No. 159) v. Morgan Hill Unified School District (12/27/85) PERB Decision No. 554

The Board found that the District violated EERA section 3543.5(a), (b) and (c) by unilaterally altering the method of seniority calculation



for initial assignments when, in calculating a former dispatcher's seniority, it included her dispatcher hours as well as her bus driver hours.

2. California School Employees Association and its Nevada Union Chapter No. 165 v. Nevada Joint Union High School District (12/31/85) PERB Decision No. 557

The Board affirmed an ALJ's decision that the District violated EERA by unilaterally changing its method of calculating monthly salary payments to its classified employees.

The main issue in this factually complex case was whether or not the District had indeed negotiated the change. The Board agreed with the ALJ that it had not. The Board also rejected the District's waiver argument, which was based on CSEA's failure to request negotiations because the District had already made a firm decision to make the change.

The Board declined to Order a status quo ante remedy, but did order the District to bargain on the method they would use in the future to calculate payments.

P. SCOPE

Eureka Teachers Association v. Eureka City School District (1/15/85) PERB Decision No. 481

The Board reversed the ALJ's finding that the District unlawfully transferred work out of the certificated bargaining unit. Evidence demonstrated that aides and teachers shared similar duties. Where unit and nonunit employees have overlapping duties, the employer does not violate

the duty to negotiate by increasing the quantity of work which nonunit employees perform and decreasing the quantity of work which unit employees perform. However, employer violated the Act by unilaterally reducing the hours of employment of an employee without affording the exclusive representative the opportunity to negotiate.

Q. STATUTE OF LIMITATIONS

1. Robert Glass v. Los Angeles Unified School District (9/30/85) PERB Decision No. 526

The Board adopted the ALJ's decision that dismissed the charge against the employer alleging that the District discriminated against a teacher when he exercised protected rights and that the exclusive representative failed to represent him in his grievance against the employer because of his activity with a rival union. The Board held that (1) there was a failure of proof that the District repudiated the collective bargaining agreement, and (2) the allegations that the employer berated charging party for protected activity is time-barred. The charge against the union was also dismissed on grounds that the union had no obligation to pursue grievances to arbitration when it reasonably perceived those grievances to be meritless. There was no proof that the charging party was discriminated against.

2. M.A. Chestangue v. San Francisco Classroom Teachers Association (12/13/85) PERB Decision No. 544

The regional attorney dismissed, and the Board affirmed, a charge that the Association breached its duty of fair representation to

charging party. The incidents alleged all occurred outside EERA's six-month statute of limitations and were not continuing violations.

3. California School Employees Association (and its Saddleback Valley Chapter No. 616) v. Saddleback Valley Unified School District (12/31/85) PERB Decision No. 558

The Board affirmed the dismissal of a charge for untimeliness. The six-month statute of limitations is to be calculated as follows: the day the alleged conduct took place is excluded from the period, but the day of filing is included. Thus, if the conduct occurs on June 20, the six-month period is from June 21 to close of business on December 20. This is in accord with section 12 of the California Code of Civil Procedure.

#### R. STRIKES

El Dorado Union High School District v. El Dorado Union High School District Faculty Association (12/2/85) PERB Decision No. 537

The Board held that the Association's picketing of the school site from 8:00 a.m. to 8:30 a.m. constituted a partial work stoppage and violated the duty to bargain and participate in good faith in the statutory impasse proceedings where parties' contract required teachers to report to work at 8:00 a.m.

Although teachers were not required to be in their classrooms during the 30-minute period and were permitted to occupy faculty lounge where they could be reached by telephone if needed for student or parent consultation, they did not have discretion to choose an off-school site to perform duties that might be required. The Board analogized these

facts to those in Palos Verdes Peninsula Unified School District (1982) PERB Decision No. 195, concluding that here the teachers' choice of where they would report for work was based on bargaining strategy rather than student-oriented as intended by the contract.

#### S. UNFAIR PRACTICE PROCEDURES

1. Gonzales Union High School District v. Gonzales Union High School District Teachers Association (1/10/85) PERB Decision No. 480

The Board affirmed the ALJ's finding that the Association violated its duty to negotiate by refusing to bargain over the summer and by failing to make counterproposals on certain issues.

The Board denied the District's motion to disqualify the ALJ on basis of bias or prejudice. Factual or legal conclusions adverse to a party's position are insufficient, as a matter of law, to justify disqualification of a Board agent for bias or prejudice.

2. San Mateo Community College Federation of Teachers, Local 1493 v. San Mateo Community College District (2/13/85) PERB Decision No. 543

The union won a decertification election on May 18, 1982, thereby replacing another organization as the exclusive representative of teachers. Despite the election victory, the District refused to honor the union's June 2 request to deduct membership dues from paychecks of members so authorizing. The District made no dues deductions from paychecks issued at the end of June, July or August.

The Board held that the District denied employee organization rights guaranteed in EERA section 3543.1(d), thus violating section 3543.5(a) and (b).

#### T. UNILATERAL CHANGES

1. Eureka Teachers Association v. Eureka City School District (1/15/85) PERB Decision No. 481

The Board reversed the ALJ's finding that the District unlawfully transferred work out of the certificated bargaining unit. Evidence demonstrated that aides and teachers shared similar duties. Where unit and nonunit employees have overlapping duties, the employer does not violate the duty to negotiate by increasing the quantity of work which nonunit employees perform and decreasing the quantity of work which unit employees perform. However, employer violated the Act by unilaterally reducing the hours of employment of an employee without affording the exclusive representative the opportunity to negotiate.

2. San Mateo Community College Federation of Teachers, Local 1493 v. San Mateo County Community College District (2/13/85) PERB Decision No. 486

The Board found that absent evidence that the parties' negotiated agreement eliminated existing sick leave for summer school employees, or that it enabled the District to take such action unilaterally, the District's unilateral rescission of such sick leave violated section 3543.5(c). The ALJ did not err by looking to bargaining history to resolve meaning of contract.

3. Oak Grove Educators Association v. Oak Grove School District (4/23/85) PERB Decision No. 503

The Board found no violation of unlawful unilateral action where the District selected one teacher for a transfer without consulting the Association. (Under the parties' prior contract the District was required to observe certain factors in selecting a transferee.) The policy under the old contract permitted the District authority to act on its operational needs after applying the required factors. Since the new contract did not modify the transfer policy the District did not evidence a change in policy when it acted on its own.

4. California School Employees Association (and its Nevada Union Chapter No. 165) v. Nevada Joint Union High School District (12/31/85) PERB Decision No. 557

The Board affirmed an ALJ's decision that the District violated EERA by unilaterally changing its method of calculating monthly salary payments to its classified employees.

The main issue in this factually complex case was whether the District had indeed negotiated the change. The Board agreed with the ALJ that it had not. The Board also rejected the District's waiver argument, which was based on CSEA's failure to request negotiations because the District had already made a firm decision to make the change.

The Board declined to Order a status quo ante remedy, but did order the District to bargain on the method they would use in the future to calculate payments.

#### U. WAIVER

Butte College Education Association and Frank Florio v. Butte Community College District (12/30/85) PERB Decision No. 555

The Board affirmed the ALJ's dismissal of a charge alleging that the District changed its transfer procedure when it transferred charging party involuntarily from a counseling position to an instructional position.

The Board agreed with the ALJ that the administrative transfer section of the current contract gave the District great flexibility because it permitted such transfers when due to "administrative requirements." The parties disagreed as to the meaning of this language, but there was no bargaining history or industry usage indicating what the term was intended to mean; therefore, the dictionary definition was applied.

#### HEERA

##### A. ACCESS

American Federation of State, County and Municipal Employees v. The Regents of the University of California (4/23/85) PERB Decision No. 504-H

The Board held that an employer has the right to reserve to itself or to its official sub-organizations, a specific means of communication. Where, however, that means was opened to outside groups for non-official use, the employer violated the Act by the discriminatory denial of such use to an employee organization.

#### B. DISCRIMINATION

California State Employees Association, Chapter No. 41 (and Michael Bogan) v. Regents of the University of California (Berkeley) (11/4/85) PERB Decision No. 534-H

The Board adopted the ALJ's dismissal of a charge alleging retaliatory dismissal and banning from certain UC premises for failure to establish a prima facie case because charging party failed to show the University's actions were motivated by his protected activity.

The Board also found that, had a prima facie case been adequately established, the University successfully rebutted it by showing it would have taken the above actions regardless of charging party's protected activities.

The Board also found the substitution of ALJ's to be proper and rejected the University's request that collateral estoppel be given an arbitrator's factual findings on the same matter.

##### C. DUTY OF FAIR REPRESENTATION

Tommie R. Dees v. California State Employees Association (3/14/85) PERB Decision No. 496-H

The Board upheld the dismissal of an unfair practice charge where none of the facts alleged showed that the Association acted in an arbitrary or discriminatory manner, or in bad faith when it did not take charging party's grievance to arbitration.



#### D. NEGOTIATIONS

Regents of the University of California v. Statewide University Police Association (9/17/85) PERB Decision No. 520-H

Dismissing UC's charge of bad-faith bargaining, the Board found that, under a totality of the circumstances test, the Association did not engage in bad-faith bargaining prior to its declaration of impasse. Further, the Board held that the Association's refusal to meet and negotiate without a mediator in the period after it had filed a sincere and reasonable declaration of impasse with PERB, but before the Board's determination of impasse, was not a violation of the Act.

Even an untimely or unfounded declaration of impasse will not be found to be a per se refusal to bargain given the importance of the impasse procedures and the short period of time in which PERB must determine whether impasse exists.

#### E. NONEXCLUSIVE REPRESENTATIVE

Student Employees' Association v. Regents of the University of California (10/29/85) PERB Decision No. 531-H

The Board affirmed the dismissal of the charge alleging that the University failed to meet and discuss a plan to reorganize the supervisory staff of the circulation section of the Moffitt Undergraduate Library and to revise an employee pamphlet. The charge also claimed that the University discriminated against employees active in the Association. The Board found that the alleged unilateral changes occurred before the Association emerged as a representative of the student library employees. In addition, relying on

The Regents of the University of California v. PERB (1985) 168 Cal.App.3d 937, the Board found that the University was not required to notify and discuss matters within scope with a nonexclusive representative. The Board affirmed the regional attorney's conclusion that the factual allegations were insufficient to demonstrate that the individual employees were treated disparately or that the reorganization plan was motivated by an effort to squelch union activism.

#### F. STATUTE OF LIMITATIONS

Mary L. Calloway v. California State Employees' Association (3/14/85) PERB Decision No. 497-H

The Board held that a charge against the Association was properly dismissed when the conduct complained of took place 19 months prior to the filing of the charge.

#### G. UNFAIR PRACTICE PROCEDURES

1. Service Employees International Union, Local 87 v. Hornet Foundation, Inc. (7/20/85) PERB Decision No. 521-H

The Board found that the regional attorney erred in dismissing a charge for failure to state a prima facie case without first addressing a disputed jurisdictional issue (i.e., whether or not the respondent was an "employer subject to the provisions of HEERA).

2. Printing Trades Alliance v. Regents of the University of California (9/25/85) PERB Decision No. 524-H

The Board affirmed the dismissal of a charge where the ALJ directed that the parties must



appear before him for the hearing in four days, unless the charge was withdrawn, or the ALJ would dismiss the charge. The parties failed to appear or withdraw as directed, and the ALJ thereupon dismissed the charge. Charging Party offered no reason to excuse its failure to appear before the ALJ as directed.

## SEERA

### A. DISCRIMINATION

Anthony J. Calcote v. State of California (Dept. of Youth Authority) (11/4/85) PERB Decision No. 535-S

The Board summarily affirmed the ALJ's proposed decision that dismissed charges against the State of California (Department of the Youth Authority).

A DYA youth counselor, Anthony Calcote, alleged that he was discriminated against because he engaged in protected rights; e.g., being elected vice-president of the local CCPOA chapter. Specifically, Calcote alleged that DYA denied a shift change request, involuntarily transferred him to another program within the same institution, and denied his request to transfer back to his previous work area.

The ALJ held that Charging Party failed to establish notice to employer of protected activity. Even assuming notice, application of Novato principals fails to raise inference of unlawful motivation. Even assuming inference is made, employer demonstrated actions would have occurred despite employee's activity.

### B. DOMINATION AND INTERFERENCE

Communications Workers of America, Psych Techs. Local 11555 v. State of California (Depts. of Personnel Administration, Mental Health, and Departmental Services) (12/13/85) PERB Decision No. 542-S

The Board modified the regional attorney's partial dismissal of an unfair practice charge alleging that DPA gave unlawful support to a rival employee organization (CAPT) and engaged in conduct to persuade employees to decertify CWA. While each individual factual allegation set forth in charge does not describe conduct violative of SEERA, the factual allegations must be considered together.

The allegation concerning DPA's unit modification effort does not, standing alone, establish a prima facie case. However, as a factual basis for unlawful support charge, it is sufficient.

### C. DUTY OF FAIR REPRESENTATION

John R. Lemmons and Robert G. Lund v. California State Employees' Association (12/13/85) PERB Decision No. 545-S

The Board upheld the regional attorney's dismissal of a charge alleging that the California State Employees' Association violated the duty of fair representation when it failed to pursue to arbitration grievances for three employees. The regional attorney dismissed the charge because the charging parties failed to allege that CSEA's actions were motivated by bad faith, or that the decisions not to pursue arbitration were arbitrary or discriminatory.

#### D. SCOPE OF REPRESENTATION

Communication Workers of America, Psych Tech Union, Local 11555 v. State of California (Dept. of Developmental Services) (1/24/85)  
PERB Decision No. 484-S

The Board affirmed the dismissal of a charge alleging transfer of work from the psychiatric technician unit to hospital workers outside of the unit. Hiring of hospital workers at Stockton Hospital was not a change of policy but proper application of statewide policy at that Hospital. Absent evidence that psychiatric technicians ceased to perform, or that hospital workers began to perform, any function or duty, no transfer of work was found. There was insufficient evidence of any adverse impact on the working conditions of psychiatric technicians.

#### E. SUPERVISORS' RIGHTS

California Union of Safety Employees v. State of California (Dept. of Developmental Services) (12/17/85)  
PERB Decision No. 551-S

The Board summarily affirmed the partial dismissal of a charge filed by the California Union of Safety Employees (CAUSE) alleging that the State of California, Department of Developmental Services retaliated against Mr. George Cross and five other employees of Stockton State Hospital for protected activities.

The regional attorney's dismissal and prior warning letter indicate that Cross was a supervisory nonbargaining unit employee when most, if not all, of his protected activity occurred; thus, any violation of SEERA would be grounded in section 3522.3 rather than 3515. PERB has said that this section is not enforceable through its unfair practice procedures. Therefore, no prima facie violation of section

3519(a) is stated. A violation of 3519(b) involving a supervisor could only be found if there were evidence that the allegedly illegal conduct had an adverse effect on nonsupervisory employees in the exercise of their rights. No such evidence was presented.

Regarding the other employees, CAUSE failed to state sufficient facts indicating that they engaged in protected activity; thus no prima facie violation of 3519(a) is shown. Nor has CAUSE shown that the disciplining of these employees has interfered with the rights of the employee organization. Thus, no prima facie violation of section 3519(b) is shown.

#### F. UNFAIR PRACTICE PROCEDURES

Laura Patino v. State of California (Employment Development Dept.) (1/18/85)  
PERB Decision No. 483-S

On appeal from a dismissal of a charge that the District terminated charging party because of her participation in protected activities, the Board remanded the case to the General Counsel for further investigation. Barring instances where a charge unequivocally fails to state a prima facie case or clearly requires issuance of a complaint, General Counsel's request for remand, where supported by his report, should be honored.

#### G. UNILATERAL CHANGE

Communication Workers of America, Psych Tech Union, Local 11555 v. State of California (Dept. of Developmental Services) (1/24/85)  
PERB Decision No. 484-S

The Board affirmed the dismissal of a charge alleging transfer of work from the psychiatric technician unit to hospital workers outside of the unit. Hiring of hospital workers at Stockton Hospital was not a change of policy

but proper application of statewide policy at that Hospital. Absent evidence that psychiatric technicians ceased to perform, or that hospital workers began to perform, any function or duty, no transfer of work was found. There was insufficient evidence of any adverse impact on the working conditions of psychiatric technicians.

### INJUNCTIVE RELIEF CASES

San Mateo Elementary School District v. San Mateo Elementary Teachers Association (11/4/85) PERB Order No. IR-48

Injunctive relief was sought by the Board where the employer presented sufficient proof that the strike occurred prior to the exhaustion of the statutory impasse procedures.

### REPRESENTATION CASES

#### EERA

Pasadena Unified School District v. California School Employees Association, Chapter 434 and International Brotherhood of Teamsters, Local 63 (10/25/85) PERB Decision No. 530

The Board affirmed the dismissal of CSEA's objections to a decertification election. The Teamsters did not engage in unlawful conduct when it took photographs of employees and used their pictures on a campaign flyer. The employees pictured cooperated with the photographer and made no inquiries nor voiced objections as to the use to which the pictures would be put. While the Board affirmed the hearing officer's conclusion that no adequate basis to overturn the election was demonstrated,

the Board noted that the hearing officer erred in ruling that evidence of voter impact was inadmissible. There was no invasion of privacy as to the six pictured employees who voluntarily came forward to testify.

#### SEERA

1. Communication Workers of America v. California Association of Psychiatric Technicians, and Department of Personnel Administration (9/26/85) PERB Decision No. 525-S

During a decertification campaign, the incumbent union challenged the status of the decertifying union. The challenge, however, was made after the ten-day period provided for in PERB Regulation 32705. The incumbent union cited "extraordinary circumstances" for its failure to file within the prescribed period. The Board held that a challenge to a union's status would be entertained only during the ten-day period provided for in Regulation 32705, or after the ballots had been counted and objections could be filed under Regulation 32738(c)(1). "Extraordinary circumstances" will permit a late filing only when the events that prohibited a timely challenge under Regulation 32705 arose during that ten-day period.

2. Association of Staff, Administrative and Financial Employees v. California State Employees Association and State of California (Dept. of Personnel Administration) (10/30/85) PERB Decision No. 532-S

The Board affirmed the dismissal of SAFE's decertification petition because it was accompanied by an inadequate showing of support.

INJUNCTIVE RELIEF REQUESTS  
FISCAL YEAR 1985/86

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
220	Ravenswood TA v. Ravenswood City SD	SF-CE-1046	Unilateral change re: school calendar	8/14/85	Withdrawn 8/22/85
221	Eureka TA v. Eureka City SD	SF-CE-1053	Unilateral change re: school calendar and minutes per day	9/17/85	Withdrawn 9/18/85
222	East Side TA v. East Side UnHSD	SF-CE-1059	Denial of access to mailboxes	10/10/85	Denied by letter 10/23/85
223	East Side TA v. East Side UnHSD	SF-CE-1063	Prohibiting employees from distributing Assn. literature	10/16/85	Denied by letter 10/23/85
224	CFA v. Trustees of Cal. State Univ.	LA-CE-144-H	Refusal to bargain	10/23/85	Denied by letter 11/12/85
225	San Mateo ESD v. San Mateo ETA	SF-CO-281	Strike	11/01/85	PERB sought & obtained TRO 10/31 & PI 11/4/85
226	Ravenswood City SD v. Ravenswood TA, et al.	SF-CO-282	Strike	11/07/85	Withdrawn 11/26/85
227	Rim of the World TA v. Rim of the World USD	LA-CE-2169	Attempt to enjoin lawsuit	11/26/85	Denied by letter 12/18/85

INJUNCTIVE RELIEF REQUESTS  
FISCAL YEAR 1985/86

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
228	California Faculty Assn. v. Trustees of the Calif. State University	LA-CE-150-H	Refusal to provide comparative salary survey data	12/26/85	Withdrawn 1/13/86
229	Oakland USD v. Oakland Education Assn.	SF-CO-284	Strike	1/07/86	Withdrawn 1/8/86
230	Oakland USD v. Oakland Educ. Assn.	SF-CO-284	Strike	1/13/86	Denied by letter 1/14/86
231	Konocti USD v. Konocti Education Association, CTA/NEA	SF-CO-287	Sick out	2/13/86	Withdrawn
232	Association of Graduate Student Employees v. Regents U.C. (Berkeley)	SF-CE-179-H SF-CE-215-H SF-CE-216-H SF-CE-217-H SF-CE-218-H SF-CE-219-H	Unilateral changes; refusal to bargain	2/19/86	Denied by letter 3/13/86
233	Calif. Correctional Peace Officers Assoc. v. State of Calif.	S-CE-282-S	Denial of employee organization rights by distributing question- naires re: matters to be litigated at unit mod. hearing	3/05/86	Withdrawn 3/6/86



INJUNCTIVE RELIEF REQUESTS  
FISCAL YEAR 1985/86

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
234	David W. Link, et al. v. Antioch Education Assn., et al.	SF-CO-134, et al.	Unlawful use of service fee	3/31/86	Withdrawn 4/4/86
235	Donna Austin, et al. v. San Jose Teachers Assn.	SF-CO-257 et al.	Unlawful use of service fee	4/01/86	Withdrawn 4/4/86
236	AFT College Guild Local 1521, AFT, AFL-CIO v. Los Angeles CCD	LA-CE-2368	Unilateral change re: school calendar	4/11/86	Denied 4/25/86
237	Communications Workers of America, AFL-CIO (CWA) v. State (Dept. of Personnel Admin.)	S-CE-286-S	Agency Fee Election should be delayed due to alleged employer misconduct	4/29/86	Board denied 5/9/86
238	Bellflower Educ. Assn. CTA/NEA v. Bellflower USD	LA-CE-2380	Discriminatory Discharge	5/23/86	Withdrawn 5/27/86
239	Tony Petrich v. Riverside USD	LA-CE-2359	Discriminatory Discharge	6/11/86	Board denied 6/30/86

## **APPENDIX B**

### **ACTIVITY FOR TRANSITION REPORTING PERIOD**

**January 1, 1985 – June 30, 1985**

## APPENDIX B

### EERA-HEERA-SEERA REPRESENTATION CASE ACTIVITY TOTAL ACTIVITY FROM 1-1-85 TO 6-30-85

	<u>Active as of 1/01/85</u>	<u>Cases Filed 1985</u>	<u>Total Active Cases</u>	<u>Closed Cases 1985</u>	<u>Active as of 6/30/85</u>
Representation Petitions	22	34	56	30	26
Decertification Petitions	8	35	43	31	12
Unit Modification Petitions	36	54	90	59	31
Organizational Security Petitions	3	7	10	10	0
Amended Certifications	0	2	2	2	0
Meditations	233	158	391	285	106
Factfindings	20	42	62	45	17
Arbitrations	0	3	3	3	0
Public Notice Complaints	9	0	9	8	1
Compliances	33	17	50	23	27
Financial Statements	0	2	2	0	2
Challenged Ballots	4	0	4	0	4
Election Objections	2	1	3	0	3
<b>TOTALS</b>	<u>370</u>	<u>355</u>	<u>725</u>	<u>496</u>	<u>229</u>

**EERA REPRESENTATION CASE ACTIVITY  
TOTAL ACTIVITY FROM 1-1-85 TO 6-30-85**

	<u>Active as of 1/01/85</u>	<u>Cases Filed 1985</u>	<u>Total Active Cases</u>	<u>Closed Cases 1985</u>	<u>Active as of 6/30/85</u>
Representation Petitions	16	34	50	29	21
Decertification Petitions	8	33	41	31	10
Unit Modification Petitions	12	41	53	36	17
Organizational Security Petitions	3	7	10	10	0
Amended Certifications	0	2	2	2	0
Mediations	233	152	385	282	103
Factfindings	20	42	62	45	17
Arbitrations	0	3	3	3	0
Public Notice Complaints	7	0	7	6	1
Compliances	26	15	41	19	22
Financial Statements	0	1	1	0	1
Challenged Ballots	0	0	0	0	0
Election Objections	2	1	3	0	3
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
<b>TOTALS</b>	<b>327</b>	<b>331</b>	<b>658</b>	<b>463</b>	<b>195</b>

**SEERA REPRESENTATION CASE ACTIVITY**  
**TOTAL ACTIVITY FROM 1-1-85 TO 6-30-85**

	<u>Active as of 1/01/85</u>	<u>Cases Filed 1985</u>	<u>Total Active Cases</u>	<u>Closed Cases 1985</u>	<u>Active as of 6/30/85</u>
Representation Petitions	1	0	1	1	0
Decertification Petitions	0	2	2	0	2
Unit Modification Petitions	24	12	36	23	13
Organization Security Petitions	0	0	0	0	0
Amended Certifications	0	0	0	0	0
Mediations	0	6	6	3	3
Factfindings	NA	NA	NA	NA	NA
Arbitrations	0	0	0	0	0
Public Notice Complaints	0	0	0	0	0
Compliances	2	0	2	1	1
Financial Statements	0	1	1	0	1
Challenged Ballots	0	0	0	0	0
Election Objections	0	0	0	0	0
<b>TOTALS</b>	<u>27</u>	<u>21</u>	<u>48</u>	<u>28</u>	<u>20</u>



**HEERA REPRESENTATION CASE ACTIVITY  
TOTAL ACTIVITY FROM 1-1-85 TO 6-30-85**

	<u>Active as of 1/01/85</u>	<u>Cases Filed 1985</u>	<u>Total Active Cases</u>	<u>Closed Cases 1985</u>	<u>Active as of 6/30/85</u>
Representation Petitions	5	0	5	0	5
Decertification Petitions	0	0	0	0	0
Unit Modification Petitions	0	1	1	0	1
Organization Security Petitions	0	0	0	0	0
Amended Certifications	0	0	0	0	0
Mediations	0	0	0	0	0
Factfindings	0	0	0	0	0
Arbitrations	0	0	0	0	0
Public Notice Complaints	2	0	2	2	0
Compliances	5	2	7	3	4
Financial Statements	0	0	0	0	0
Challenged Ballots	4	0	4	0	4
Election Objections	0	0	0	0	0
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
<b>TOTALS</b>	16	3	19	5	14

**EERA ELECTIONS HELD  
1-1-85 TO 6-30-85**

<u>Date</u>	<u>Case Number(s)</u>	<u>Employer Name</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>Valid Votes</u>	<u>Org With Majority</u>	<u>Other Org (OS/Yes)</u>	<u>Other Org (OS/No)</u>	<u>No Rep</u>	<u>Chalg Ballots</u>	<u>Void Ballots</u>	<u>Type Elect</u>
1-16-85	SF-R-678E	Orchard ESD	CLS	12	9	SEIU-9			0	0	0	C/REP
4-03-85	S-R-778E	Elverta Jt ESD	CLS	11	11	CSEA-11			0	0	0	C/REP
5-15-85	LA-R-897E	San Diego City USD	CLS	20	18	Teamsters-11			7	0	1	C/REP
5-30-85	LA-R-888E	San Diego City USD	CLS	1469	815	CEA/NEA-789			26	0	18	C/REP
2-27-85	S-D-81E	West Hills CCD	CRT	41	41	CTA-24	AFT-15		2	0	0	D/REP
3-29-85	SF-D-126E, 127E	San Mateo Un HSD	CLS	154	95	CSEA-54	AFSCME-40		1	6	2	D/REP
3-29-85	SF-D-128E	San Mateo Un HSD	CLS	211	96	CSEA-47	AFSCME-24		25	0	0	D/REP
5-02-85	SF-D-133E	Petaluma City ESD & HSD	CRT	327	303	AFT-172	CTA-130		1	2	0	D/REP
5-03-85	SF-D-132E	Oakland USD	CRT	141	108	UTA/AFT-72	OEA/CTA-33		3	0	0	D/REP
5-07-85	SF-D-134E	Sonoma County Jt Jr Coll	CLS	305	183	SCOPE-147	CSEA-25		11	0	0	D/REP
5-07-85	LA-D-165E	Culver City USD	CLS	268	213	CSEA-138	CCFT/AFT-73		2	0	0	D/REP
5-14-85	SF-D-136E	Jefferson ESD	CRT	296	278	AFT-181	CTA-95		2	0	0	D/REP
5-16-85	SF-D-135E	Berkeley USD	CRT	687	574	AFT-372	CTA-200		2	1	5	D/REP
5-21-85	SF-D-141E	Gilroy USD	CRT	399	364	CTA-196	AFT-166		2	2	0	D/REP
5-21-85	SF-D-128E	San Mateo Un HSD	CLS	211	130	CSEA-111			19	1	0	D/REP
5-22-85	LA-D-166E	Ventura USD	CLS	189	114	VCEA-77	CSEA-36		1	0	3	D/REP
5-22-85	LA-D-167E	Ventura USD	CLS	273	200	VCEA-112	CSEA-84		4	0	2	D/REP
5-22-85	LA-D-168E	Ventura USD	CLS	119	104	VCEA-63	CSEA-40		1	0	0	D/REP
5-22-85	S-D-86E	Cascade Un ESD	CRT	75	75	AFT-43	ACTA/CTA-31		1	0	0	D/REP
5-29-85	S-D-83E	Columbia ESD	CLS	12	8	See No Rep	CSEA-1		7	0	0	D/REP
5-30-85	S-D-80E	Tehama COE	CLS	46	40	CSEA-22			18	0	0	D/REP
6-03-85	LA-D-173E	Culver City USD	CRT	304	262	CCFT/AFT-140	CCTA/CTA-118		4	3	0	D/REP
6-04-85	S-D-85E	Placer Hills Un ESD	CRT	48	48	CTA-24	AFT-24		0	0	0	D/REP
6-04-85	SF-D-139E	Oakland USD	CRT	129	113	CTA-92	AFT-21		0	0	0	D/REP
6-04-85	LA-D-172E	Compton CCD	CLS	80	66	CCCFT-53	CSEA-11		2	1	0	D/REP
6-05-85	LA-D-170E	Newport-Mesa USD	CRT	840	640	NMFOT-385	NMEA-247		8	1	1	D/REP
6-06-85	S-D-89E	Clovis USD	CLS	288	255	CSEA-161			94	1	0	D/REP
6-11-85	SF-D-138E	San Francisco USD	CLS	2076	1262	SFFOT-796	CSEA-429		37	0	14	D/REP
6-20-85	SF-D-137E	Solano County CCD	CLS	33	21	SE-17	CSEA-4		0	0	0	D/REP

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**EERA ELECTIONS HELD  
1-1-85 TO 6-30-85**

<u>Date</u>	<u>Case Number(s)</u>	<u>Employer Name</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>Valid Votes</u>	<u>Org With Majority</u>	<u>Other Org (OS/Yes)</u>	<u>Other Org (OS/No)</u>	<u>No Rep</u>	<u>Chalg Ballots</u>	<u>Void Ballots</u>	<u>Type Elect</u>
2-15-85	SF-OS-113E	Laguna Salada Un ESD	CRT	184	135		OS/Yes-92	OS/No-43				C/REP
2-28-85	S-OS-55E	Lemoore Un ESD	CRT	79	61		OS/Yes-51	OS/No-10				C/REP
3-07-85	SF-OS-114E	Ukiah USD	CRT	268	230		OS/Yes-151	OS/No-79				C/REP
4-25-85	SF-OS-116E	San Mateo COE	CRT	250	144		OS/Yes-110	OS/No-34				C/REP
4-30-85	SF-OS-115E	Santa Clara COE	CRT	348	223		OS/Yes-147	OS/No-76				C/REP
4-30-85	LA-OS-80E	Brawley Un HSD	CRT	68	62		OS/Yes-37	OS/No-25				C/REP
5-31-85	SF-OS-117E	Fort Bragg USD	CRT	128	78		OS/Yes-49	OS/No-29				C/REP
6-06-85	SF-OS-118E	Alameda City USD	CLS	124	82		OS/Yes-66	OS/No-16				C/REP
4-10-85	LA-OS-52ER	Pleasant Valley ESD	CLS	154	142		OSR/Yes-98	OSR/No-44				D/REP
4-08-85	S-UM-254E	Stockton City USD	CRT	42	33	Stockton TA-32			1	0	1	C/REP

## **ABBREVIATIONS TO THE ELECTIONS HELD**

<b>ACTA</b>	<b>Anderson–Cascade Teachers Association</b>
<b>AFT</b>	<b>American Federation of Teachers</b>
<b>AFSCME</b>	<b>American Federation of State, County and Municipal Employees</b>
<b>CCCFT</b>	<b>Compton Community College Federated Teachers</b>
<b>CCFT</b>	<b>Culver City Federated Teachers</b>
<b>CCTA</b>	<b>Culver City Teachers Association</b>
<b>CEA</b>	<b>California Education Association</b>
<b>CSEA</b>	<b>California School Employees Association</b>
<b>CTA</b>	<b>California Teachers Association</b>
<b>NEA</b>	<b>National Education Association</b>
<b>NMEA</b>	<b>Newport–Mesa Education Association</b>
<b>NMFOT</b>	<b>Newport–Mesa Federation of Teachers</b>
<b>OEA</b>	<b>Oakland Education Association</b>
<b>SCOPE</b>	<b>Sonoma County Organization of Professional Educators</b>
<b>SE</b>	<b>Stationary Engineers</b>
<b>SFFOT</b>	<b>San Francisco Federation of Teachers</b>
<b>UTA</b>	<b>United Teachers Association</b>
<b>VCEA</b>	<b>Ventura Classified Employees Association</b>

TOTAL FILINGS  
1-1-85 TO 6-30-85  
UNFAIR PRACTICE CASES - BY ACT

CE's

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
JAN	35	4	1	40
FEB	37	3	3	43
MAR	37	0	4	41
APR	25	4	2	31
MAY	42	8	5	55
JUN	<u>30</u>	<u>6</u>	<u>15</u>	<u>51</u>
TOTALS	206	25	30	261

CO's

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
JAN	3	1	5	9
FEB	15	0	1	16
MAR	5	0	9	14
APR	4	1	0	5
MAY	9	1	0	10
JUN	<u>3</u>	<u>0</u>	<u>2</u>	<u>5</u>
TOTALS	39	3	17	59

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GRAND TOTALS	245	28	47	320
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EERA-HEERA-SEERA  
UNFAIR PRACTICE CASE ACTIVITY  
1-1-85 TO 6-30-85

	<u>Active as of 1/01/85</u>	<u>Cases Filed</u>	<u>Closed Cases</u>	<u>Active as of 6/30/85</u>
<u>EERA</u>				
CE	266	206	256	216
CO	<u>64</u>	<u>39</u>	<u>61</u>	<u>42</u>
TOTAL	330	245	317	258
<u>HEERA</u>				
CE	38	25	18	45
CO	<u>4</u>	<u>3</u>	<u>4</u>	<u>3</u>
TOTAL	42	28	22	48
<u>SEERA</u>				
CE	23	30	23	30
CO	<u>3</u>	<u>17</u>	<u>11</u>	<u>9</u>
TOTAL	26	47	34	39
<u>GRAND TOTAL</u>				
CE	327	261	297	291
CO	<u>71</u>	<u>59</u>	<u>76</u>	<u>54</u>
	398	320	373	345

Note:

CE – Charges against employers

CO – Charges against employee organizations

REGIONAL ATTORNEY STAFF ACTIVITY  
1-1-85 TO 6-30-85

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
Complaints Issued	129	9	11	149
Dismissals	46	8	24	78
Withdrawals	90	4	8	102

ADMINISTRATIVE LAW JUDGE ACTIVITY  
1-1-85 TO 6-30-85

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
Proposed Decisions Issued	25	3	2	30
- Appeals	14	1	2	17
- Final Decisions	11	2	0	13
Informal Settlement Conferences	154	12	11	177
Headings Held	56	5	2	63

INJUNCTIVE RELIEF REQUESTS  
1-1-85 TO 6-30-85

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
215	Buckeye TA v. Buckeye Union SD	S-CE-863	Unilateral change re: school calendar	2/06/85	Ct denied TRO 2/15/85
216	Dr. William Schwartzman v. State of California (San Quentin Prison)	SF-CE-68-S	Discrimination (lateral transfer denied)	2/19/85	Rejected 2/20/85 Did not meet filing requirements
217	Dr. William Schwartzman v. State of California (San Quentin Prison)	SF-CE-68-S	Discrimination (lateral transfer denied)	3/05/85	Denied by letter 3/18/85
218	CDFEA v. Dept. of Forestry	S-CE-251-S	Discriminatory discharge	4/01/85	Withdrawn 4/4/85
219	Claremont USD v. Claremont Fac. Assn.	LA-CO-330	Threatened strike	5/20/85	Withdrawn 5/24/85

## **APPENDIX C**

### **ACTIVITY FOR FISCAL YEAR 1985-86**

# APPENDIX C

## EERA-HEERA-SEERA REPRESENTATION CASE ACTIVITY TOTAL ACTIVITY FOR FISCAL YEAR 1985/86

	<u>Active as of 7/01/85</u>	<u>Cases Filed 85/86</u>	<u>Total Active Cases</u>	<u>Closed Cases 85/86</u>	<u>Active as of 6/30/86</u>
Representation Petitions	26	43	69	47	22
Decertification Petitions	12	46	58	50	8
Unit Modification Petitions	31	75	106	89	17
Organization Security Petitions	0	20	20	19	1
Amended Certifications	0	8	8	7	1
Mediations	106	419	525	407	118
Factfinding	17	59	76	56	20
Arbitrations	0	6	6	3	3
Public Notice Complaints	1	2	3	2	1
Compliances	27	33	60	38	22
Financial Statements	2	6	8	8	0
Challenged Ballots	4	0	4	4	0
Election Objections	3	7	10	7	3
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTALS	229	724	953	737	216



**EERA REPRESENTATION CASE ACTIVITY  
TOTAL ACTIVITY FOR FISCAL YEAR 1985/86**

	<u>Active as of 7/01/85</u>	<u>Cases Filed 85/86</u>	<u>Total Active Cases</u>	<u>Closed Cases 85/86</u>	<u>Active as of 6/30/86</u>
Representation Petitions	21	43	64	44	20
Decertification Petitions	10	46	56	50	6
Unit Modification Petitions	17	69	86	71	15
Organization Security Petitions	0	17	17	17	0
Amended Certifications	0	8	8	7	1
Mediations	103	407	510	401	109
Factfindings	17	58	75	55	20
Arbitrations	0	6	6	3	3
Public Notice Complaints	1	2	3	2	1
Compliances	22	28	50	34	16
Financial Statements	1	0	1	1	0
Challenged Ballots	0	0	0	0	0
Election Objections	3	6	9	7	2
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
<b>TOTALS</b>	<b>195</b>	<b>690</b>	<b>885</b>	<b>692</b>	<b>193</b>

**SEERA REPRESENTATION CASE ACTIVITY  
TOTAL ACTIVITY FOR FISCAL YEAR 1985/86**

	<u>Active as of 7/01/85</u>	<u>Cases Filed 85/86</u>	<u>Total Active Cases</u>	<u>Closed Cases 85/86</u>	<u>Active as of 6/30/86</u>
Representation Petitions	0	0	0	0	0
Decertification Petitions	2	0	2	0	2
Unit Modification Petitions	13	5	18	16	2
Organizational Security Petitions	0	3	3	2	1
Amended Certifications	0	0	0	0	0
Mediations	3	9	12	4	8
Factfindings	NA	NA	NA	NA	NA
Arbitrations	0	0	0	0	0
Public Notice Complaints	0	0	0	0	0
Compliances	1	2	3	2	1
Financial Statements	1	6	7	7	0
Challenged Ballots	0	0	0	0	0
Election Objections	0	1	1	0	1
<b>TOTALS</b>	<u>20</u>	<u>26</u>	<u>46</u>	<u>31</u>	<u>15</u>

**HEERA REPRESENTATION CASE ACTIVITY  
TOTAL ACTIVITY FOR FISCAL YEAR 1985/86**

	<u>Active as of 7/01/85</u>	<u>Cases Filed 85/86</u>	<u>Total Active Cases</u>	<u>Closed Cases 85/86</u>	<u>Active as of 6/30/86</u>
Representation Petitions	5	0	5	3	2
Decertification Petitions	0	0	0	0	0
Unit Modification Petitions	1	1	2	2	0
Organizational Security Petitions	0	0	0	0	0
Amended Certifications	0	0	0	0	0
Mediations	0	3	3	2	1
Factfindings	0	1	1	1	0
Arbitrations	0	0	0	0	0
Public Notice Complaints	0	0	0	0	0
Compliances	4	3	7	2	5
Financial Statements	0	0	0	0	0
Challenged Ballots	4	0	4	4	0
Election Objections	0	0	0	0	0
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTALS	14	8	22	14	8

**EERA ELECTIONS HELD  
FISCAL YEAR 1985/86**

<u>Date</u>	<u>Case Number(s)</u>	<u>Employer Name</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>Valid Votes</u>	<u>Org With Majority</u>	<u>Other Org (OS/Yes)</u>	<u>Other Org (OS/No)</u>	<u>No Rep</u>	<u>Chalg Ballots</u>	<u>Void Ballots</u>	<u>Type Elect</u>
7-19-85	LA-R-904E	College ESD	CLS	15	14	CSEA-14						
9-20-85	S-R-781E	Lammersville ESD	CLS	13	13	CSEA-10			0	0	0	C/REP
10-10-85	S-R-783E, I-101E	Rescue Un ESD	CLS	48	45	AFT-21	CSEA-19		3	0	0	D/REP
11-08-85	LA-R-835E	Los Angeles USD	CLS/S	2307	1484	See No Rep	SEIU-710		5	0	0	C/RO
11-19-85	S-R-783, I-101E	Rescue Un ESD	CLS	49	46	CSEA-26	FOT/AFT-20		774	3	70	C/REP
3-14-86	S-R-799E	Gerber Un ESD	CRT	15	13	GT/CTA-13			0	0	0	C/RO
3-20-86	LA-R-906E	Ventura COE	CLS	20	14	See No Rep	CSEA-4		0	0	0	D/REP
4-23-86	LA-R-907E	Standard ESD	CLS	67	56	KCPEA-52			10	0	0	D/REP
5-27-86	S-R-807E	Jamestown ESD	CLS	24	21	CSEA-21			4	2	2	D/REP
									0	0	0	D/REP
11-13-85	S-S-108E	Butte COE	CLS	70	50	CSEA-34	BCEA-14		2	7	1	C/REP
7-25-85	SF-D-142E	Jefferson Un HSD	CLS	50	35	AFT-32	Teamsters-2		1	0	0	D/REP
9-26-85	S-D-93E	Dunsmuir Jt Un HSD	CRT	13	12	CTA-8			4	0	0	D/REP
9-27-85	LA-D-177E	El Camino CCD	CLS	320	227	CSEA-133	ECCFT-86		8	0	0	D/REP
10-01-85	LA-D-174E	Santa Maria Jt Un HSD	CLS	177	177	CTA-106	AFT-68		3	0	0	D/REP
10-01-85	LA-D-175E	Santa Maria Jt Un HSD	CRT	182	138	AFT-79	CSEA-57		2	0	1	D/REP
10-03-85	S-D-85E	Placer Hills Un ESD	CRT	51	49	CTA-27	AFT-22		0	0	1	D/RO
10-17-85	S-D-92E	Siskiyou COE	CLS	28	23	CSOSC-14	CSEA-8		1	0	0	D/REP
10-29-85	S-D-95E	Dunsmuir Jt Un HSD	CLS	7	7	DCEA-5	CSEA-1		1	0	0	D/REP
10-30-85	SF-D-143E	Campbell Un HSD	CRT	360	299	CTA-209	COPE-88		2	0	1	D/REP
12-13-85	SF-D-144E	Hartnell CCD	CLS	23	18	SE-11	CSEA-7		0	0	0	D/REP
1-16-86	LA-D-178E	Pleasant Valley ESD	CLS	156	144	Se No Rep	CSEA-58		86	0	0	D/REP
1-31-86	LA-D-143E	Kern COE	CLS	345	258	SOSCA-147	CSEA-100		11	1	0	D/REP
2-14-86	LA-D-179E	Grossmont Un HSD	CLS	109	98	SEIU-64	CSEA-33		1	0	2	D/REP
4-30-86	LA-D-188E	Pasadena Area CCD	CLS	74	66	Teamsters-43			23	0	0	D/REP
5-01-86	S-D-98E	San Joaquin ESD	CRT	26	24	SJTA/CTA-20			4	0	0	D/REP
5-07-86	LA-D-189E	Ramona USD	CLS	115	101	CSEA-89	SEIU-11		1	0	0	D/REP
5-07-86	LA-D-190E	Ramona USD	CLS	70	50	CSEA-48	SEIU-1		1	0	0	D/REP
5-08-86	SF-D-151E	Mount Diablo USD	CLS	400	222	CSEA-164	CTA-54		4	0	0	D/REP
5-13-86	SF-D-148E	Novato USD	CRT	380	344	AFT-231	CTA-110		3	0	1	D/REP
5-14-86	LA-D-187E	Fullerton Jt Un HSD	CRT	25	22	FSTA-12	FJPG-9		1	0	0	C/REP
5-14-86	SF-D-147E, 150E	Mount Diablo USD	CLS	290	237	CSEA-103	PEU-99	CTA-31	4	2	0	D/REP

# EERA ELECTIONS HELD FISCAL YEAR 1985/86

C-6

Date	Case Number(s)	Employer Name	Unit Type	Unit Size	Valid Votes	Org With Majority	Other Org (OS/Yes)	Other Org (OS/No)	No Rep	Chalg Ballots	Void Ballots	Type Elect
5-16-86	LA-D-183E	Sweetwater Un HSD	CLS	307	221	CSEA-153	SEIU-62		6	7	2	D/REP
5-16-86	SF-D-149E	Solano COE	CLS	21	21	CSEA-11	SAGE-10		0	0	0	D/REP
5-20-86	LA-D-191E	Chino USD	CRT	771	584	ACT-379	CFOT-201		4	0	4	C/REP
5-23-86	LA-D-180E	Norwalk-La Mirada USD	CLS	313	187	CSEA-145	SEIU-39		3	0	1	D/REP
5-28-86	S-D-100E	Stanislaus COE	CRT	7	7	See No Rep	SCPSA-2		5	0	0	C/REP
5-28-86	SF-D-147E	Mount Diablo USD	CLS	290	244	CSEA-133	PEU-107		4	0	0	D/RO
5-29-86	LA-D-182E	San Diego City USD	CLS	1829	1043	CSEA-728	SEIU-284		31	16	11	D/REP
5-29-86	S-D-99E	Placer COE	CLS	91	77	CSEA-43	CAN-33		1	0	0	D/REP
5-29-86	LA-D-184E	San Diego CCD	CLS	156	117	SEIU-70	CSEA-46		1	0	1	D/REP
5-29-86	LA-D-185E	San Diego CCD	CLS	36	31	CSEA-21	SEIU-10		0	2	0	D/REP
6-02-86	SF-D-146E	San Francisco USD	CRT	3902	3261	CTA-1643	AFT-1583		35	6	10	D/REP
6-02-86	LA-D-194E	Downey USD	CLS	170	111	CSEA-56	SEIU-54		1	0	0	D/REP
6-03-86	S-D-101E	Turlock Jt Un HSD	CLS	39	37	AFT-29	CSEA-7		1	0	0	D/REP
6-04-86	LA-D-196E	Santa Monica-Malibu USD	CLS	117	83	SEIU-53	CSEA-29		1	0	0	D/REP
6-05-86	LA-D-193E	Las Virgenes USD	CLS	248	158	NEA-77	CSEA-75		6	0	0	C/REP
6-12-86	LA-D-192E	Poway USD	CLS	212	145	SEIU-88	CSEA-56		1	5	0	C/REP
6-16-86	SF-D-154E	Cupertino Un ESD	CLS	354	190	CSEA-98	SEIU-83		9	0	1	D/REP
6-17-86	LA-D-193E	Las Virgenes USD	CLS	250	156	LVCEA-88	CSEA-68		0	0	3	D/RO
8-23-85	LA-OS-82E	Redondo Beach City ESD	CRT	17	9		OS/Yes-7	OS/No-2				C/REP
8-27-85	LA-OS-81E	Wasco Un HSD	CRT	40	33		OS/Yes-23	OS/No-10				C/REP
9-24-85	SF-OS-119E	Cotati-Rohnert Park USD	CRT	300	214		OS/Yes-131	OS/No-83				C/REP
10-24-85	S-OS-57E	Merced City ESD	CLS	290	187		OS/Yes-103	OS/No-84				C/REP
10-24-85	S-OS-58E	Merced City ESD	CLS	119	96		OS/Yes-67	OS/No-29				C/REP
12-13-85	LA-OS-83E	Brawley Un HSD	CLS	15	13		OS/Yes-8	OS/No-5				C/REP
1-28-86	LA-OS-84E	Huntington Beach City ESD	CRT	220	188		OS/Yes-169	OS/No-19				C/REP
2-13-86	S-OS-60E	Winton ESD	CRT	38	37		OS/Yes-26	OS/No-11				C/REP
2-20-86	LA-OS-88E	El Centro ESD	CLS	196	164		OS/Yes-90	OS/No-74				C/REP
2-20-86	LA-OS-85E	Brawley Un HSD	CLS	30	28		OS/Yes-10	OS/No-18				C/REP
2-26-86	LA-OS-89E	Redlands USD	CLS	503	172		OS/Yes-158	OS/No-14				C/REP
2-27-86	SF-OS-120E	Contra Costa COE	CRT	128	50		OS/Yes-35	OS/No-15				C/REP
3-04-86	LA-OS-86E	Charter Oak USD	CRT	231	149		OS/Yes-127	OS/No-22				C/REP
3-10-86	LA-OS-87E	Chaffey Un HSD	CRT	662	385		OS/Yes-231	OS/No-154				C/REP
4-14-86	SF-OS-122E	Mount Diablo USD	CRT	16	15		OS/Yes-12	OS/No-3				C/REP

**EERA ELECTIONS HELD  
FISCAL YEAR 1985/86**

<u>Date</u>	<u>Case Number(s)</u>	<u>Employer Name</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>Valid Votes</u>	<u>Org With Majority</u>	<u>Other Org (OS/Yes)</u>	<u>Other Org (OS/No)</u>	<u>No Rep</u>	<u>Chalg Ballots</u>	<u>Void Ballots</u>	<u>Type Elect</u>
4-09-86	LA-OS-90ER	El Centro ESD	CRT	200	155		OSR/Yes-105	OSR/No-50				C/REP
10-02-85	SF-UM-369E	Antioch USD	CLS	182	102		Cons/Yes-84	Cons/No-18				C/REP
10-02-85	SF-UM-369E	Antioch USD	CLS	131	63		Cons/Yes-45	Cons/No-18				C/REP
10-16-85	S-UM-278E	Shasta Un HSD	CRT	59	40	SSTA/CTA-38						C/REP
4-29-86	S-UM-294E	Lincoln USD	CLS	50	11	CSEA-11			2 0	0 0	1 0	C/REP



# HEERA ELECTIONS HELD FISCAL YEAR 1985/86

<u>Date</u>	<u>Case Number(s)</u>	<u>Employer Name</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>Valid Votes</u>	<u>Org With Majority</u>	<u>Other Org (OS/Yes)</u>	<u>Other Org (OS/No)</u>	<u>No Rep</u>	<u>Chalg Ballots</u>	<u>Void Ballots</u>	<u>Type Elect</u>
11-22-85	SF-R-27H	University of CA	U27	3256	2098	See No Rep	AFSCME-418		1680	34	15	C/REP
2-03-86	SF-PC-669H	University of CA	U19	3692	2204	See No Rep	AFT-470		1734	246	10	C/REP

# SEERA ELECTIONS HELD FISCAL YEAR 1985/86

<u>Date</u>	<u>Case Number(s)</u>	<u>Employer Name</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>Valid Votes</u>	<u>Org With Majority</u>	<u>Other Org (OS/Yes)</u>	<u>Other Org (OS/No)</u>	<u>No Rep</u>	<u>Chalg Ballots</u>	<u>Void Ballots</u>	<u>Type Elect</u>
12-30-85	S-D-87S	State of CA	S18	7656	4144	CAPT-2253	CWA-1662		129	6	86	D/REP
11-07-85	S-OS-56S	State of CA	S09	4900	2559		OS/Yes-1597	OS/No-962	0	5	24	C/REP
12-05-85	S-OS-59S	State of CA	S02	1824	1068		OS/Yes-639	OS/No-447	0	2	8	C/REP

## **ABBREVIATIONS TO THE ELECTIONS HELD**

<b>ACT</b>	<b>Association of Chino Teachers</b>
<b>AFT</b>	<b>American Federation of Teachers</b>
<b>AFSCME</b>	<b>American Federation of State, County and Municipal Employees</b>
<b>BCEA</b>	<b>Butte County Education Association</b>
<b>CAN</b>	<b>Classified Action Negotiators</b>
<b>CAPT</b>	<b>California Association of Psychiatric Technicians</b>
<b>CFOT</b>	<b>Chino Federation of Teachers</b>
<b>COPE</b>	<b>Campbell Organization of Professional Educators</b>
<b>CSEA</b>	<b>California School Employees Association</b>
<b>CSEA</b>	<b>California State Employees Association</b>
<b>CSOSC</b>	<b>Classified Staff of Siskiyou COE</b>
<b>CTA</b>	<b>California Teachers Association</b>
<b>CWA</b>	<b>Communications Workers of America</b>
<b>DCEA</b>	<b>Dunsmuir Classified Employees Association</b>
<b>ECCFT</b>	<b>El Camino Community College Federated Teachers</b>
<b>FJPG</b>	<b>Fullerton Jt Un HSD Personnel and Guidance</b>
<b>FOT</b>	<b>Federation of Teachers</b>
<b>FSTA</b>	<b>Fullerton Secondary Teachers Association</b>
<b>GTA</b>	<b>Gerber Teachers Association</b>
<b>KCPEA</b>	<b>Kern County Public Employees Association</b>
<b>LVCEA</b>	<b>Las Virgenes Classified Employees Association</b>
<b>NEA</b>	<b>National Education Association</b>
<b>PEU</b>	<b>Public Employees Union</b>
<b>SAGE</b>	<b>Solano Association of Government Employees</b>
<b>SCPSA</b>	<b>Stanislaus County Pupil Services Association</b>
<b>SE</b>	<b>Stationary Engineers</b>
<b>SEIU</b>	<b>Service Employees International Union</b>
<b>SJTA</b>	<b>San Joaquin Teachers Association</b>
<b>SOSCA</b>	<b>Superintendents of Schools Classified Association</b>
<b>SSTA</b>	<b>Shasta Secondary Teachers Association</b>

TOTAL FILINGS – FISCAL YEAR 1985/86  
UNFAIR PRACTICE CASES – BY ACT

CE's

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
JUL	27	1	2	30
AUG	31	5	3	39
SEPT	39	5	0	44
OCT	46	9	4	59
NOV	29	2	1	32
DEC	27	6	4	37
JAN	26	4	4	34
FEB	34	4	1	39
MAR	36	5	4	45
APR	22	2	7	31
MAY	24	7	4	35
JUN	<u>19</u>	<u>2</u>	<u>3</u>	<u>24</u>
TOTAL	360	52	37	449

CO's

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
JUL	3	2	0	5
AUG	3	1	1	5
SEPT	1	1	2	4
OCT	6	1	1	8
NOV	9	0	3	12
DEC	6	2	1	9
JAN	3	1	1	5
FEB	6	2	3	11
MAR	5	0	3	8
APR	9	0	2	11
MAY	6	1	1	8
JUN	<u>2</u>	<u>0</u>	<u>0</u>	<u>2</u>
TOTAL	59	11	18	88

GRAND TOTALS

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419	63	55	537
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EERA-HEERA-SEERA  
UNFAIR PRACTICE CASE ACTIVITY  
FISCAL YEAR 1985/86

	<u>Active as of 1/01/85</u>	<u>Cases Filed</u>	<u>Closed Cases</u>	<u>Active as of 6/30/85</u>
<u>EERA</u>				
CE	216	361	379	198
CO	<u>42</u>	<u>59</u>	<u>43</u>	<u>58</u>
TOTAL	258	420	422	256
<u>HEERA</u>				
CE	45	52	58	39
CO	<u>3</u>	<u>9</u>	<u>5</u>	<u>7</u>
TOTAL	48	61	63	46
<u>SEERA</u>				
CE	30	37	42	25
CO	<u>9</u>	<u>20</u>	<u>12</u>	<u>17</u>
TOTAL	39	57	54	42
<u>GRAND TOTAL</u>				
CE	291	450	479	262
CO	<u>54</u>	<u>88</u>	<u>60</u>	<u>82</u>
	345	538	539	344

Note:

CE – Charges against employers

CO – Charges against employee organizations

REGIONAL ATTORNEY STAFF ACTIVITY  
FISCAL YEAR 1985/86

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
Complaints Issued	243	40	16	299
Dismissals	66	19	26	111
Withdrawals	113	10	15	138

ADMINISTRATIVE LAW JUDGE ACTIVITY  
FISCAL YEAR 1985/86

	<u>EERA</u>	<u>HEERA</u>	<u>SEERA</u>	<u>TOTAL</u>
Proposed Decisions Issued	48	6	4	58
– Appeals	16	1	3	20
– Final Decisions	32	5	1	38
Informal Settlement Conferences	223	30	17	270
Hearings Held	60	9	7	76