



**PUBLIC EMPLOYMENT
RELATIONS BOARD**

ANNUAL REPORT

**to the
LEGISLATURE**



1987-88

PUBLIC EMPLOYMENT RELATIONS BOARD

October 15, 1988

1987-1988 Report
To The Legislature



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Governor
State of California

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MESSAGE FROM THE CHAIRPERSON

The past year has seen many exciting and progressive changes at PERB, beginning with changes in the structure of the Board itself. Five Board committees have been established to oversee the significant functions of the Agency, namely, Administration, Legislation, Legal, Representation, and Administrative Law. Composed of two Board members each, the committees meet regularly with key staff members in an effort to provide ongoing direction. In addition, the Board itself meets in regular public session, at least once per month, to hear committee reports, take public comment, and decide on matters of significance.

PERB has experienced a considerable change in management staff, including a new Executive Director, Chief Administrative Law Judge, and General Counsel. In addition, a new data processing system has been purchased and installed, the organizational structure is being streamlined, regulations revised, and time-consuming procedures changed—all geared towards the goal of faster case processing and greater service to the parties who come before PERB for resolution of labor relations issues.

The Board has also undertaken a serious review of the direction of the Agency. For its first twelve years of existence, PERB has concentrated almost exclusively in resolving labor-management disputes after they occurred, either as unfair labor practice charges or as bargaining impasses. The Board has concluded that the emphasis needs to begin to shift, to help the parties work together to solve problems. As a result, the Board has undertaken efforts to develop and implement a labor-management cooperation program with the objective of promoting labor-management cooperation and thereby reducing the number of labor-management confrontations.

The Board is excited about the future of the Agency and the possibilities for a new and expanded role in the labor relations community. On behalf of the Board and its staff, I wish to thank the parties for their assistance and support over the past year.

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 expires January 1, 1989.

BOARD MEMBERS

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, Berkeley and received his law degree from the Hastings College of Law in San Francisco. His term expires January 1, 1990.



Stephen Porter
Board Member



William A. Craib
Board Member

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. It has been recently announced that Mr. Craib has been voted into The Who's Who in California to be published in December of 1988. His term as a member of the Public Employment Relations Board expires January 1, 1991.



Willard A. Shank
Board Member

Willard A. Shank was appointed as a member of the Public Employment Relations Board in April 1987. He served as the Adjutant General of the California National Guard from 1983 to February, 1987. Member Shank was the Assistant Adjutant General of the California National Guard from 1975-83. He joined the California Department of Justice as a Deputy Attorney General in 1950. He also served as Chief Assistant Attorney General Civil from 1977-1983. Mr. Shank is a member of the State Bar Association. He received his Bachelor of Law Degree from the University of California, Berkeley in 1946 and his juris doctorate from the same University four years later. His term expires January 1, 1992.

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 (Government Code section 3540, et seq.). This statute was authored by State Senator Albert S. Rodda, and established collective bargaining in California's public schools K-14. Collective bargaining was established in state government by the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Government Code section 3512, et seq.). In 1979, coverage was extended to higher education under the provisions of the Higher Education Employer-Employee Relations Act (HEERA) authored by Assemblyman Howard Berman (Government Code section 3560, et seq.).

PERB is the quasi-judicial agency established to administer these statutes

and adjudicate disputes that arise under them. The Board is empowered to: (1) conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively 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 and responsibilities of employers, employees and employee organizations under the Acts; (6) monitor the financial activities of employee organizations; (7) conduct research, perform public education and conduct training programs related to public employer-employee relations.



Executive Director DENNIS BATCHELDER served as Deputy Director for the Department of Personnel Administration before his appointment to PERB. Dennis' background includes a degree in Journalism and service as the chief negotiator for Sacramento County.

Approximately 665,174 public sector employees and 1,169 employers are included under the jurisdiction of these three Acts. The majority of these employees (456,418) work for California's public school system from pre-kindergarten through, and including the Community College system (K-14). The remainder of the employees covered are employed by the State of California (120,420) or the University of California, the California State University, and the Hastings College of Law (88,336). Municipal, county, and local special district employers and employees are not subject to PERB jurisdiction, but rather are covered under the Meyers-Milias-Brown Act.

ORGANIZATION OF PERB

PERB is headquartered in Sacramento with regional offices in Los Angeles, Sacramento and San Francisco. The organizational elements of the Agency consist of the Board, the Division of Administrative Law, the General Counsel and the Division of Administrative Services.

The Board is composed of five members appointed by the Governor and subject to confirmation by the State Senate. (The fifth Board member position is currently vacant.) In addition to the overall responsibility for administering the EERA, the Ralph C. Dills Act and HEERA, the Board itself acts as an appellate body to hear challenges to decisions by its agents and administrative law judges. Seventy-six Board decisions were issued in the 1987-88 reporting year. Only two were appealed to the State Appellate Courts.

The Division of Administrative Law houses PERB's Administrative Law Judges (ALJ). The ALJs hold informal settlement conferences on the unfair practice cases. If no agreement is reached, another ALJ conducts a formal hearing and maintains a record. The ALJ issues a proposed

decision of written findings and legal conclusions that are binding on the parties if no appeal is filed. If a party disagrees with the ALJ's decision, an appeal may be filed with the Board itself. The Board issues a decision and if the parties still disagree, the case may be appealed to the State Appellate Courts.

In the 1987-88 reporting period, 54 proposed decisions on unfair practice allegations were issued by the ALJs. Eighteen cases (33.3%) were appealed to the Board and thirty-six (66.7%) became final without an appeal being filed.

The General Counsel is the Board's chief legal officer. The General Counsel also oversees the agency's Division of Charge Processing, Division of Litigation, and the Division of Representation.

In litigation, the General Counsel represents the Board when its formal decisions are challenged in court, when attempts are made to enjoin the Board's processes, and when the Board wishes to seek injunctive relief against alleged unfair practices.

In the capacity of Charge Processing, a regional attorney in each regional office is responsible for investigating unfair practice charges to determine whether they reflect a "prima facie" case of unfair practice. After investigation, regional attorneys resolve unfair practice charges by issuing complaints or dismissing charges that do not state a prima facie case.

The Division of Representation has representatives in each regional office which include a Regional Director, Labor Relations Specialist, and support staff. The division is responsible for handling a broad range 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 negotiation disputes to mediation and factfinding, and allegations of noncompliance with PERB orders.

The Division of Administrative Services provides the technical and support services of the PERB, such as business services, personnel, accounting, data processing, mail and duplicating. It is responsible for the day-to-day operations of the Agency, and for initiating and conducting research and legislative activity.

This division also coordinates training, and arranges and conducts meetings, many of which are held as forums designed to facilitate communication between employers and employees. It also

maintains liaison with the Legislature and the Executive branch of state government.

PERB employs approximately 95 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. PERB's policy prohibits discrimination based on age, race, sex, color, religion, national origin, political affiliation, ancestry, marital status, sexual orientation or disability. PERB continues to maintain and ensure equal employment opportunities for applicants and employees at all levels in the organization.



General Counsel CHRISTINE BOLOGNA served as Chief Counsel to the Department of Personnel Administration and Counsel to the California State Employees Association prior to her appointment at PERB.

PERB ACTIVITIES

Representation

The representation process normally begins when a petition is filed by an employee organization to represent classifications of employees which reflect an internal and occupational community of interest. If only one employee organization petition is filed 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 representational rights of the same unit, an election is mandatory.

If either the employer or an employee organization 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. The Board has historically stressed voluntary settlements and has consistently and effectively offered 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 the 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. As of June 30, 1988, there were 2,170 bargaining units within PERB's jurisdiction.

Elections

A primary function of PERB is to conduct representation and organizational security 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.

In the 1987-1988 reporting period PERB conducted a total of 60 elections covering approximately 46,317 employees. Fourteen of these elections were to determine which employee organization, if any, would represent the employees of a particular negotiating unit. Of these, 12 elections resulted in the selection of an exclusive representative and one in the selection of "No Representation," and one required a runoff.

The Board conducted 23 decertification elections. Of these, 11 resulted in retention of the incumbent organization, 6 resulted in the selection of another employee organization as the exclusive representative and 3 resulted in the election of "no representation." Three unit modification elections were also conducted by the Board. This type of election is most often held to decide whether or not certain groups of employees should be added to existing negotiating units.

Organizational security elections occur in order for employees to approve (under the EERA) or rescind (under the EERA and Ralph C. Dills Act) an organizational

security or a fair share fee agreement. Organizational security election procedures are similar to those followed in representation elections. The Board conducted a total of 19 approval elections and no rescission elections in the 1987-1988 reporting period.

All but two approval elections resulted in the ratification of the organizational security provisions.

Election procedures are contained in PERB regulations (section 32700 et seq.). 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.

Impasse Resolution

PERB 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) of the Department of Industrial Relations is contacted to assign a mediator. Under the

direction of SMCS Chief Ed Allen, the mediation staff has been successful in resolving these contract disputes. SMCS mediators have settled 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 ten days after its issuance. Under HEERA, publication is discretionary. Both laws provide that mediation can continue after the factfinding process has been completed.

Financial Reports

The law requires recognized or certified employee organizations covered by EERA and HEERA to file with PERB an annual financial report of income and expenditures no later than 60 days following the close of the organization's fiscal year. Organizations covered by Ralph C. Dills Act, who have negotiated a fair share fee arrangement, have 90 days to file such a report. Statements alleging noncompliance with this regulatory requirement may be filed with PERB. Upon receipt of such a filing, PERB agents investigate the employee allegation in order to determine its accuracy. If necessary, PERB may take action to bring the organization into compliance.

Bargaining Agreements

PERB regulations require that employers file, with PERB regional offices, a copy of collective bargaining agreements or amendments to those agreements (contracts) within 60 days of the date of execution. These contracts are maintained on file as public records in regional offices.

Advisory Committee

The Advisory Committee to the Public Employment Relations Board was organized in 1980 to assist PERB in the review of its regulations as required by AB 1111. The Advisory Committee consists of over 150 people from throughout California representing employers, employee organizations, law firms, negotiators, professional consultants, the public and scholars.

Although the regulation revision has been completed, the Advisory Committee continues to assist the Board in its search for creative ways in which its professional staff can cooperate with parties to promote the peaceful resolution of disputes and contribute to greater stability in employer-employee relations. This dialogue has aided PERB in reducing case processing time by such improvements as the substitution of less costly investigations in certain public notice cases, the stimulation of innovative research projects of value to the parties, and the suggestion and preparation of further regulatory changes.

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



Assistant General Counsel JOHN SPITTLER was a Deputy Attorney General in the Civil Division of the Office of the Attorney General. John also serves on the Yolo County Commission on Aging.

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 practice. Examples of unlawful employer conduct are: coercive questioning of employees regarding their union activity; disciplining or threatening employees for participating in union activities, or promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union, or an exclusive representative's failure to represent bargaining unit members fairly in the employment relationship with the employer.

Once filed, a Board agent evaluates the charge and the underlying facts to determine whether a prima facie case of an unfair practice has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit a reasonable inference that a violation of the EERA, Dills Act or HEERA exists.

If the Board agent determines that the charge fails to state a prima facie case, the Board agent issues a warning letter notifying the charging party of the deficiencies. If the charge is neither amended nor withdrawn, the Board agent will dismiss it. The charging party may appeal the dismissal to the Board itself.

Investigations by Board agents have been successful in minimizing the issuance of formal complaints in cases involving spurious charges. This has resulted in a savings of time and resources for PERB and the parties.

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 to the

case and calls the parties together for an informal settlement conference. At the informal conference, the parties are free to discuss the case in confidence with the ALJ. If settlement is not reached, a formal hearing is scheduled.

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

Many disputes are settled informally. Six hundred (600) unfair practice charges were filed in fiscal year 1987-1988. Of these cases, and cases filed in prior years, five hundred and seventy-six (576) cases were disposed of. Three hundred fifty-three (353) of these were withdrawn or dismissed at the investigation stage, while two hundred twenty-three (223) cases were settled (withdrawn or dismissed) after the complaint was issued. One hundred eighty-one (181) complaints issued and thirty-eight (38) complaints/partial dismissals were also issued.

A proposed 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 decisions that are not appealed are binding only upon the parties to the case. Fifty-seven (57) proposed decisions issued during the fiscal year.

If a party to the case is dissatisfied with a proposed decision, it may file a statement of exceptions and supporting brief with the Board. After evaluating the case, the Board may: (1) affirm the proposed decision; (2) modify it in whole or in part; (3) reverse; or (4) send the matter back to the ALJ to take additional evidence. Approximately 32 percent of the proposed decisions were appealed to the Board itself.

An important distinction exists between (ALJ) proposed decisions that become final and decisions of the Board itself. Proposed decisions may not be cited as precedent in other cases before the Board. Board decisions are precedential, binding on not only the parties to a particular case, but also serving as guidance for similar issues in subsequent cases. (See appendix.)

LITIGATION

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

- defending final Board decisions or orders in unfair practice cases when aggrieved parties seek review in appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision, order or ruling, or with a subpoena issued by PERB;
- seeking appropriate interim injunctive relief against alleged unfair practices;
- defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections;
- defending a Board unit determination decision when the Board agrees that the case is one of special importance and joins in a request for immediate appellate review;
- submitting amicus curiae briefs and other motions, and appearing in cases in which the Board has a special interest or in cases affecting the jurisdiction of the Board.

Litigation Summary

During the 1987-1988 fiscal year, PERB opened four (4) new Superior Court, Appellate Court and Supreme Court case files. In addition, the Board received decisions in nine (9) litigation cases filed in previous years. Only two (2) of these decisions were published, precedential court opinions. The others involved summary dispositions and an unpublished opinion.

Several significant cases are currently pending disposition by the California Courts of Appeal and the California Supreme Court.

In the 1987-1988 reporting period, thirteen (13) requests for injunctive relief were received, eleven (11) were withdrawn, and two (2) were denied.

A. PUBLISHED OPINIONS

The Regents of University of California v. PERB/American Federation of State, County and Municipal Employees, Local 372 and William H. Wilson, President, Local 372 (1988) 485 U.S. ___, 99 L.Ed. 2d 664, 108 S.Ct. 1404.
(PERB Dec. No. 420-H)

After remand from the appellate court, PERB issued Decision No. 420-H, concluding that a total ban on free use of the internal mail system by employee organizations was an unreasonable regulation. The Board decided that the Private Hands Without Compensation, and the Business of the Carrier exceptions to the Private Express Statutes applied to allow carriage of union mail concerning labor relations in the internal mail system to University of California employees. PERB ordered U.C. to refrain from "denying employees their rights by refusing employee organizations access to its internal mail system."

Another writ of review proceeding followed. The appellate court's decision issued on June 9, 1986, affirming the Board's Order. The California Supreme Court denied review. U.C. appealed the decision to the U.S. Supreme Court on November 11, 1986.

On April 20, 1988, the U.S. Supreme Court reversed the decision of the Court of Appeal for the First Appellate District which, in turn, overruled the PERB decision. The Supreme Court held:

1. The federal Private Express Statutes prohibit postage free letters from carriage crossing postal routes. (Comment: Newspapers and some leaflets without addresses may be carried without postage. Postal routes are any and all streets used by the postal service; delivery may be accomplished within schools. Lawrence Livermore National Laboratory may be an exception as the post office does not deliver within that facility.)

2. Neither the Business of the Carrier exception nor the Private Hands Without Compensation exception apply to U.C.'s delivery of mail without postage for the union to U.C. employees.

Banning Teachers Association, CTA/NEA v. PERB/Banning Unified School District (1988) 44 Cal.3d 799, 244 Cal.Rptr. 671.
(PERB Decision No. 536)

PERB held that parity clauses are not per se unlawful under the EERA and the legality of parity ("me-too") agreements with exclusive representatives should be decided on a case-by-case basis. The evidence

did not support a finding that the District engaged in bad faith bargaining with its employees.

The Association petitioned for review. The appellate court reversed the PERB decision and remanded the case to PERB. PERB filed a petition for review after decision of the Court of Appeal, Fourth Appellate District. The Supreme Court granted review, thereby vacating the appellate decision. On March 7, 1988, the Supreme Court reversed the appellate decision and fully upheld PERB Decision No. 536.

B. UNPUBLISHED OPINIONS

Fontana Classified Employees Assn. v. PERB/United Steelworkers of America/Fontana Unified School District, Fourth Appellate District Case No. E003458.
(PERB Order No. Ad-157)

This case involves the timely filing of a decertification petition. In its August 26, 1987 decision, the court annulled the administrative decision and remanded it to the Board. The court held that Board Regulation 32130(b) (California Administrative Code, title 8, section 32130(b)) and section 1013 of the California Code of Civil Procedure should be applied "in such a manner so as to preserve, if at all possible, the parties' right of appeal." On November 6, 1987, the Board issued Order No. Ad-157a, declaring the petition timely filed.

C. SUMMARY DISPOSITIONS

PERB v. Compton Education Association, CTA/NEA/Compton Unified School District, Los Angeles Superior Court Case No. C640448.
(PERB Order No. IR-50)

PERB obtained a preliminary injunction on April 8, 1987, after the

Board granted the District's request for injunctive relief against post-impasse intermittent strike activity. After the strike was settled, the court dismissed the case on July 6, 1987.

PERB v. Sacramento City Teachers Association, CTA/NEA; California Teachers Association, et al./Sacramento City Unified School District, Sacramento Superior Court Case No. 347019 (PERB Order No. IR-49)

PERB obtained a preliminary injunction on February 2, 1987, after the Board granted the District's request for injunctive relief against a strike where impasse procedures had not been exhausted. After settlement, the court dismissed the case on August 4, 1987.

PERB v. Laguna Salada Education Association, CTA/NEA/Laguna Salada Union School District, San Mateo Superior Court Case No. 318850.

PERB obtained a partial temporary restraining order (TRO) on May 21, 1987 after the Board granted the District's request for injunctive relief against strike activity absent prior notice to the District. After settlement, the court dismissed the partial TRO on August 11, 1987.

Professional Engineers in California Government (PECG) v. PERB/State of California (Department of Personnel Administration), Third Appellate District Case No. C003756 (PERB Decision No. 648-S)

PECG filed an untimely petition for writ of review from PERB Decision No. 648-S, relying on California Code of Civil Procedure section 1013 (5 extra filing days if service by mail). The court's summary order granted PERB's motion to dismiss on February 18, 1988.

East Side Union High School District v. East Side Teachers Assn., CTA/NEA and PERB, Santa Clara Superior Court Case No. 640872.

The District filed a complaint for declaratory relief and petition to vacate an arbitration award. PERB filed a demurrer which the court sustained on March 1, 1988.

Tustin Unified School District v. PERB, et al./Tustin Educators Association, CTA/NEA, Orange Superior Court Case No. 541834 (PERB Decision Nos. 626, 626a)

The District filed a petition for writ of mandate against the Board's affirmation of the regional attorney's dismissal of charges. PERB filed an opposition and demurrer. The court sustained PERB's demurrer, granting petitioner leave to amend. PERB again demurred to the amended petition; the District requested dismissal and the court entered the dismissal on March 28, 1988.

Associated Chaffey Teachers v. PERB/Chaffey Joint Union HSD and Bobby Fikes, Fourth Appellate District Case No. E005650 (PERB Decision No. 669)

A petition for writ of review from PERB Decision No. 669 was filed June 30, 1988 in the Court of Appeal, Fourth Appellate District. The petition sought review of a "nonfinal" decision or order in an unfair practice case, since PERB Decision No. 669 reinstated unfair practice charges previously dismissed in part, and ordered the General Counsel to issue complaints. A motion to dismiss the petition for lack of jurisdiction under Government Code section 3542(b) was therefore filed. On August 26, 1988, the appellate court issued a summary order granting the motion and dismissing the petition.

D. DECISIONS PENDING APPEAL

Cumero v. PERB/King City High School District Assn. CTA/NEA; King City JUHSD; California Teachers' Assn.; National Education Assn., Case No. SF 24905.
(PERB Decision No. 197)

The Board decision concluded that: (1) PERB had jurisdiction under Government Code sections 3543 and 3546 to review agency fee arrangements in public school collective bargaining agreements as unfair practices and (2) a variety of expenditures, such as lobbying, organizing and publications, by the exclusive representatives were permissible uses of agency fees.

The Board decision was appealed to the Court of Appeal, First Appellate District which, in part, overruled the Board rationale, applying the test of Ellis v. Brotherhood of Railway, Airline and Steamship Clerks (1984) 466 US 435 to the expenditures (Cumero v. PERB (1985) 167 Cal.App.3d 131). The appellate decision was in turn appealed and the California Supreme Court granted review, thereby vacating the lower court's decision. Oral argument before the Supreme Court was conducted on May 10, 1988 and the case was submitted for decision.

Elsinore Valley Education Assn. CTA/NEA v. PERB/Lake Elsinore School District, Case No. E005078.
(PERB Decision No. 646)

The Board decision interpreted EERA section 3541.5(a) to preclude its exercise of unfair practice jurisdiction because: (1) the parties' collective bargaining agreement culminated in binding arbitration, (2) the dispute (unilateral extension of work day) was covered by the agreement, and (3) the conduct

charged was prohibited by the agreement, notwithstanding that neither the parties nor Board agent addressed the issue of prearbitration deferral. The Board overruled Dry Creek Joint Elementary School District (1980) PERB Order Ad-81a insofar as it conditioned prearbitration deferral under the EERA on private sector Collyer Insulated Wire (1971) 192 NLRB 837 standards.

The Board decision was appealed to the Court of Appeal, Fourth Appellate District. The appellate court stayed the application of the Board's jurisdictional ruling to any pending cases. The Board thereafter placed in abeyance all pending prearbitration deferral cases and such cases filed during the pendency of the stay. The case was set for oral argument on July 7, 1988.

The case was orally argued on July 7; on July 28, 1988, the appellate court issued a unanimous decision fully validating the Board decision. The court found the Board's discussion of deferral jurisdiction and statutory construction a "lengthy and well-reasoned analysis." The decision was not certified for publication and the State Supreme Court denied the Board's request for publication on October 12, 1988. A petition for Supreme Court review was not filed and the appellate decision is final. All Board cases previously in abeyance have been activated.

Jeff D. Paige v. PERB/Hacienda La Puente USD, Case No. B036106
(PERB Decision No. 685)

A petition for writ of review was filed July 25, 1988, in the Court of Appeal, Second Appellate District, challenging PERB Decision No. 685. Preliminary briefs are now being submitted.

Mt. San Antonio Community College District v. PERB/Mt. San Antonio Community College Faculty Association, Case No. B036249 (PERB Decision No. 691)

On July 28, 1988, a petition for writ of review from PERB Decision No. 691 was filed in the Court of Appeal, Second Appellate District. The case is now being briefed.

E. OTHER DECISIONS OF INTEREST

Communications Workers of America v. Beck (1988) 487 U.S. ___, 101 L.Ed.2d 634.

Nonmember agency fee payers challenged union expenditures for social, charitable and political events. They sought damages and declaratory and injunctive relief on the grounds that the expenditures violated: (1) the payers' rights under the First Amendment, (2) the union's duty of fair representation, and (3) section 8(a)(3) of the National Labor Relations Act (NLRA). The plaintiffs prevailed in the U.S. District Court and were affirmed in part, reversed in part in the U.S. Court of Appeal for the Fourth Circuit. The U.S. Supreme Court held: (1) the lower courts had properly exercised jurisdiction over the First Amendment and duty of fair representation claims, (2) the Court of Appeals could properly decide the section 8(a)(3) claim insofar as necessary to resolve the duty of fair representation challenge, and (3) the agency fees could be expended only on items necessary to performing the duties of an exclusive employee representative in dealing with the employer on labor-management issues.

McClammon v. Los Angeles Unified School District (1987) 195 Cal.3d 661.

Petitioner filed a Writ of Mandate in Superior Court alleging that a collective bargaining agreement established a salary schedule which violated Education Code section 45028 in that the salary for accumulated experience was different than that set forth in the Code. The Superior Court dismissed because petitioner had failed to exhaust his administrative remedies before PERB. The Court of Appeal, Second District held that the exclusive representative's conduct in negotiating the agreement was violative of its duty of fair representation, and, therefore an unfair practice. Accordingly, PERB has exclusive, initial jurisdiction over the issue.

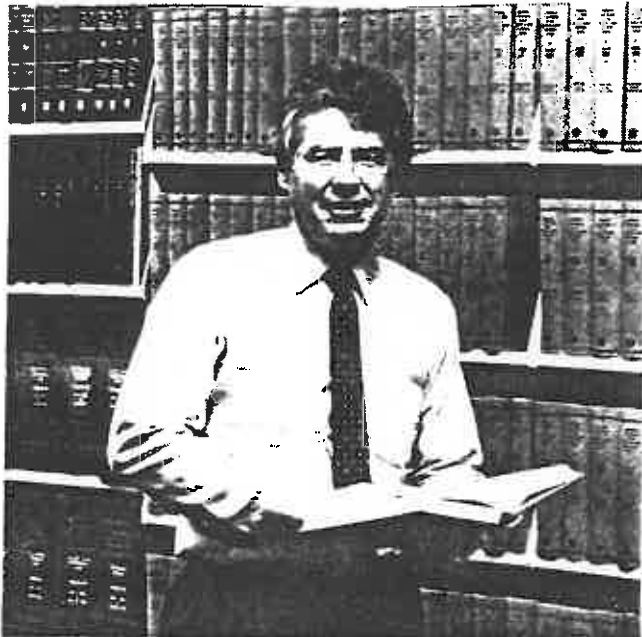
Marshall v. Russo (1987) 197 Cal.App.3d 124.

Petitioner contended that she was entitled to notice and a hearing before her hours were reduced under Education Code sections 44949 and 44955. The district defended on the ground that petitioner had failed to exhaust her administrative remedies before PERB. The Court of Appeal for the Sixth District found the McClammon, *supra*, conclusion "questionable" because it failed to identify how the District committed an unfair practice and failed to note that rights granted under the Education Code were nonnegotiable. The Russo court held that the instant case involved only rights under the Education Code rather than rights arising under a collective bargaining agreement.

San Francisco Classroom Teachers Association v. San Francisco Unified School District (1987) 196 Cal.App.3d 627.

The Association challenged the District's salary schedule placement policy and four teachers challenged arbitration awards. All of the cases concerned the same issue: was the District's salary schedule placement policy in compliance with the

uniformity requirement of Education Code section 45028? The Court of Appeal for the First District held that the District's placement policy violated section 45028. (See Palos Verdes Faculty Association v. Peninsula Unified School District (1978) 21 Cal.3d 650.) The Court also held that Education Code section 45028 is not superceded by Government Code section 3543.2(d).



Chief Administrative Law Judge GARY GALLERY served as the General Counsel to the California Community College Commission prior to his work at PERB as an Administrative Law Judge.

THE PERB RESEARCH PROGRAM

BACKGROUND

Twelve years have elapsed since the Rodda Act, collective bargaining in public education, was initiated. In that time, the PERB has been crafting a unique, service-oriented research program. Seeking to be of service to the parties under its jurisdiction, to be responsive to the informational needs of the public, Legislature and press, and to be responsible in its expenditure of resources, the research projects of PERB have been modest in scope yet multifaceted in purpose and execution. The projects have been of short duration, yet susceptible to long term extension as necessary. They have addressed specific topical needs, yet offer basic behavioral data about the collective bargaining process to policymakers and academicians; and they have encouraged the mutual participation of the parties in the development and direction of the agency.

Reliable, neutrally gathered information provides to those participating in formal negotiations or conflict resolution an impressive tool for accomplishing their task more efficiently and with less tension. Similarly, such information enables the public, policymakers, employees, employers and employee organizations to more fully understand the results of the collective bargaining process.

LEGISLATIVE DIRECTION

The statutes which are administered by the PERB are very clear in their mandate to the agency that ongoing research be conducted. The Educational Employment Relations Act provides in Government Code section 3541.3(f) that PERB has the responsibility to conduct research and studies "relating to employee-employer relations, including the collection, analysis, and making available of data relating to wages, benefits, and

employment practices in public and private employment, and when it appears necessary in its judgment to the accomplishment of the purposes of this Chapter, recommend legislation."

REQUESTS FOR INFORMATION

The requests for information received by the agency show that the research mandate of PERB is real and functioning. Legislators and their staff, the Executive Branch of Government, the press, academicians, the public, and organizations representing labor and management frequently request information about the results and surrounding variables of the collective bargaining process.

In order to satisfy the need the public and policymakers have for knowing the impact of collective bargaining on education and other public services, a reliable baseline of fundamental information must be developed before questions regarding the impact of public sector bargaining can be addressed accurately.

Specific legislative enactments which have funded the individual research projects of the agency have emphasized PERB's legislative mandate to conduct research and collect data on the bargaining process. For example, PERB has been instructed by the Legislature to gather basic data with regard to health benefit expenditures. The Legislature also instructed PERB to collect information regarding the implementation of the provision of the Hart-Hughes School Reform Act (SB 813) which authorized employers to negotiate discipline short of dismissal for certificated employees.

ROUTINE INFORMATION COLLECTED BY PERB

PERB continues to collect a wealth of information regarding collective bargaining. Examples of information

routinely collected by PERB include: negotiated agreements, factfinding reports, unfair practice filings, as well as the agency's internal management information system regarding case processing.

- **COLLECTIVE BARGAINING AGREEMENTS**

PERB regulations require employers under each of the Acts it administers to file copies of negotiated agreements in a PERB regional office. Agreements filed with PERB are now being read and the contents are electronically encoded for later analysis and retrieval. Electronic data processing presents an exciting opportunity to expeditiously and creatively access and examine the contents of these collectively bargained contracts.

- **FACTFINDING REPORTS**

Reports of the tripartite factfinding panels utilized in the impasse procedures of EERA and HEERA are filed with PERB. Factfinding reports have been available to parties and practitioners by subscription from PERB since its inception, and in addition, PERB has compiled an index to these. The index permits cross-reference of issues, parties and neutrals involved in each report.

- **UNFAIR PRACTICE AND FILINGS**

PERB's unfair practice charges constitute another source of data on the collective bargaining process and the relationships between parties within PERB jurisdictions. PERB decisions on unfair practice filings are manually indexed, and the index is available to the parties and the public commercially, or by subscription from PERB.

- **RESEARCH: DESIGNING AND IMPLEMENTING PROJECTS OF MANAGEABLE PROPORTIONS**

The PERB research program has been constrained by a variety of factors that

influenced which projects would be undertaken and how the studies would be conducted. PERB is evolving a research program based on the congruence between needs and resources within the agency and needs of the parties and related organizations for objective and reliable information.

PERB's lack of research staff, facility, or equipment in combination with the desire of the agency and the parties to utilize its research capability has resulted in a cautious approach into the research world. PERB has been reluctant to take on a research program only to abandon the project down the road. Because of these constraints, the research effort was delayed until after the agency had been fully established. PERB's research program is designed to complete small, focused projects through the use of research consultants and inter-agency agreements.

The research efforts of PERB to date have met these criteria, with the EERA statute specifically authorizing the contract approach. Section 3541.3(f) of the Government Code states: "The board may enter into contracts to develop and maintain research and training programs designed to assist public employers and employee organizations in the discharge of their mutual responsibilities under this chapter." Yet, since the research results can have far-reaching impact upon the process, this design may give way to a greater, more long-term commitment of the agency's resources as the ability of PERB to meet its research goals is evaluated.

SELECTING RESEARCH EFFORTS

Three major elements have influenced the establishment of research priorities. First, the statute instructs that PERB focus on reports and studies "necessary to the accomplishment of the purposes of the collective bargaining acts." A prime consideration has been to make information available to the parties that would reduce bargaining stress. PERB,

with the help of its Advisory Committee, identified research needs that would support the parties in conducting realistic and factual bargaining. The second element influencing the choice of research projects is that of fiscal resources available to the agency for research purposes.

Finally, these research projects will be the start of a collection of raw, behavioral data resulting from a significant public policy decision. As such they should provide usable data for scholars and future policy makers.

LABOR-MANAGEMENT COOPERATION ... THE EMERGING PARADIGM

New frontiers in the practice of labor relations have been pioneered by the private sector. These efforts have improved product quality and reduced conflict. PERB has taken a leadership role in examining these methods and introducing them to the public sector.

By providing the parties within its jurisdiction with these new and innovative tools for working together, disputes are less likely to occur in the bargaining process, participation in decision making is increased, and the PERB caseload of dispute resolutions is reduced or held to a necessary minimum.

With approximately 80% of the caseload originating from only 20% of the jurisdiction, these innovative methods can also be applied to help overcome chronic areas of conflict. Conflict reduction is a key element in providing those parties who do have cases coming to PERB for resolution with as rapid a process as possible. A manageable caseload at the staff and Board level can help provide for expeditious case handling overall without the necessity of increasing financial costs to the public.

HEALTH CARE EXPENDITURES AND COST CONTAINMENT

The State of California, the schools and higher education employers, as has been the case for virtually all other employers in the last decade, have been faced with rapidly increasing health care costs. This was especially true in 1980-1983. In an effort to provide bargaining parties with information about the magnitude of these increases, and more importantly the alternatives to containing costs pursuant to SB922, of 1983, the Legislature and Governor, 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. . .", PERB conducted studies from 1984 through 1986. In 1988, PERB again initiated a study of health benefit expectations in the public sector.

The results of PERB's Health Care Cost Containment surveys have been forwarded to the Legislature under separate cover.

FACTFINDING

The actual and potential effectiveness of factfinding was of concern to members of PERB's Advisory Committee. Advisory Committee members questioned PERB regulations governing the factfinding process, the training of neutrals and whether the process generated more conflict than it resolved. The questions raised in the Advisory Committee could only be resolved through a systematic sounding of the results, the opinions and the viewpoints of all the participants in the factfinding process. Based upon the Advisory Committee discussions, it was also thought to be likely that there were different types of factfinding situations

and that the process could be improved by identifying the characteristics of successful and unsuccessful factfinding cases.

THE FACTFINDING EVALUATION SURVEY

In June of 1986, PERB contracted with Policy Analysis in California Education (PACE) to conduct a survey of factfinding participants. The survey was designed to help PERB and others evaluate the factfinding process as an impasse resolution technique. The factfinding survey sought participants' views on the reasons for going to factfinding, the purposes served by the factfinding, the obstacles encountered, and participants' ideas about what changes should be made in the factfinding process. The results of the survey have enabled the parties and public to better understand the factfinding process and what it can or cannot achieve toward resolving impasse situations in the collective bargaining process. During this reporting period, PERB initiated a series of conferences on this subject. The conferences address those areas of concern identified by the survey.

NEUTRAL, RELIABLE INFORMATION ABOUT BARGAINING RESULTS

A reliable database containing a tally of the contents of collective bargaining agreements provides important and useful statistical information to bargaining parties. Such information compiled by a neutral body will conceivably reduce disagreements between parties and allow for more rapid closure of bargaining. Such a contract reference file also provides state policymakers such as the Legislature and the administration with an added tool in their efforts to predict and manage the costs and conflicts in public education.

THE CONTRACT REFERENCE FILE

To test the feasibility of such a contract reference file, PERB contracted with the California State Department of Industrial Relations (DIR), Division of Labor Statistics and Research, in May 1986, to develop a coding system and test code 260 current contracts in educational units. A computerized reference file of agreements at PERB has over 1,000 contracts encoded.

SUMMARY

In developing its research and communications goals, PERB has relied heavily upon the stimuli of expressed need from its immediate constituents - the parties under its jurisdiction as well as the public, press, administration, and the Legislature. As a result, these goals, when reduced to specific statements of expectation are to . . .

- encourage and conduct high quality research in labor-management relations;
- provide a forum for the discussion of labor relations problems and their solutions;
- provide a medium for the exchange of information related to the aims, objectives, procedures and administration of dispute resolution;
- assist the PERB in rendering improved services to the parties, the public and the executive, legislative, and judicial branches of government;
- improve employer-employee relationships in the public sector

and promote the peaceful resolution of employer-employee and labor-management disputes; and

- develop the public's interest in labor relations, and to aid labor, management, and the public in obtaining a better understanding of their respective responsibilities under the laws administered by PERB.

The research and information dissemination goals which PERB has set are, in great measure, a reflection of the

organization's legislative mandate and the self-image it has established in implementing the law.

While the immediate parties to the collective bargaining process describe it as productive, fulfilling, exciting, meaningful, and even historically important, those who are not privy to the bargaining table are often curious, confused, and left to wonder about its impact. Because basic research data is a tool which can serve to satisfy the needs of both of these groups, it is an activity which requires an investment of effort, attention, and resources.

CASE DIGEST

REPRESENTATION

A. COMPLIANCE

Mt. San Antonio College Faculty Association v. Mt. San Antonio Community College District (6/30/88) (PERB Decision No. 691)

This compliance case results from alleged unilateral changes resulting from a District's reorganization plan affecting departmental chairpersons. Prior to issuance of the proposed decision, but after the filing of charges, the parties entered into a two-year collective bargaining agreement.

The Board decision (Mt. San Antonio Community College District (1983) PERB Decision No. 334) upheld the ALJ in finding an unlawful unilateral change as to the monthly stipend, and reversed, in part, finding that the District did not negotiate the transfer of unit work to non-unit employees and modification of working hours. The Board ordered the District to meet with the Association concerning the issues of unit work, stipends, and change of hours and awarded back pay to the affected employees until an agreement was negotiated concerning these subjects, or the Association failed to request bargaining.

The District advised the Board of its compliance with the order. The Association immediately asked the District to negotiate. The District sent another compliance letter to the Board which stated that it would comply with its order to negotiate the specified matters and a later meeting date would be established. A Board agent thereafter sent a letter to the parties indicating that

compliance had been achieved. The Association then requested to bargain and the District refused.

The Association subsequently filed an unfair practice charge alleging repudiation of the agreement to bargain. The General Counsel advised that the charge was untimely but compliance proceedings would be appropriate. The Association then filed the instant petition seeking compliance with Decision No. 334.

The Board decision affirmed the proposed decision in part and reversed in part. Back pay liability was limited to the 1977-79 collective bargaining agreement as to stipends, preparation period and release time. The Board reasoned that the District waived the tolling of liability for the duration of the agreement. All unit members entitled to compensation were incumbents at the time of reorganization so the Board did not reach the issue whether PERB Decision No. 334 included employees who later became chairpersons. The Board affirmed the proposed decision in rejecting an equitable statute of limitations regarding enforcement proceedings; the only prejudice arguable was the running of interest, and interest was tolled as of the date the Association asked to negotiate.

The Board reversed the ALJ in finding that interest did not resume when enforcement proceedings started, reasoning that the Association's failure to exercise due diligence in seeking compliance was not absolved. The Board cited Modesto City and High School Districts (1987) PERB Decision No. 566, distinguishing the justification for imposing interest in the private sector from the public sector.

The Board further reversed the ALJ's order of 10 percent interest per annum, concluding that the proper rate was 7 percent from May 1977 through June 1983, and 10 percent from July through September 1983; this conclusion was based upon the amendment of California Code of Civil Procedure section 685.010 increasing the rate of interest to 10 percent as of July 1, 1983.

B. CONFIDENTIAL EMPLOYEE

Imperial Unified School District and California School Employees Association and its Imperial Chapter #565 (12/18/87)
(PERB Decision No. 647)

The Board summarily affirmed a hearing officer's decision denying the union's unit modification petition seeking to add the newly-created position of receptionist/clerk I to the existing wall-to-wall classified unit. The Board agreed that the receptionist/clerk I is a "confidential" position within the meaning of section 3540.1(c). The receptionist/clerk I had performed some duties relating to employer-employee relations and worked in an isolated area among indisputably confidential employees where there was a practice of sharing assignments whenever necessary. An attendance security supervisor position was, however, added to the unit.

C. DECERTIFICATION PETITION (MOOTNESS)

Fontana Classified Employees Association/NEA and United Steelworkers of America AFL/CIO, and Fontana Unified School District (6/20/88)
(PERB Order No. Ad-169)

The Association filed a petition to decertify United Steelworkers. The

Board dismissed the petition and the Association appealed. As a result of a later filed petition, the parties entered into a consent election agreement which called for an election. The Board therefore dismissed the appeal as moot because the only appropriate relief was to order a decertification election and an election was in fact held.

D. ELECTION (BALLOT IMPOUND)

Oakland Unified School District and Unified Teachers of Oakland, AFT Local #771 and Oakland Education Association, CTA/NEA (6/29/88)
(PERB Order No. Ad-171)

The Board denied the Association's request to dismiss its appeal because significant legal issues existed and the representation rights of over 700 employees were at stake. The Board also ordered that the ballots remain impounded and the election stayed until the appeal was decided by the Board.

E. EXTRAORDINARY CIRCUMSTANCES (LATE FILING)

Alhambra City and High School District and California School Employees Association and its Alhambra Chapter #295 and Local 660, Service Employees International Union, AFL-CIO (6/20/88)
(PERB Order No. Ad-170)

The Board denied the Association's request to excuse a late filing of its appeal from dismissal of a decertification petition. Pursuant to PERB Regulation 32136 (California Administrative Code, title 8, section 32136), no extraordinary circumstances existed to excuse the late filing.

F. FINANCIAL STATEMENT

Jules Kimmet v. L.A. City & County School Employees Union, Local 99, SEIU, AFL-CIO (12/18/87)
(PERB Order No. Ad-167)

The Board rejected the "appeal" from the dismissal of a financial statement complaint for failure to comply with Regulation 32360 (California Administrative Code, title 8, section 32360). Appellant submitted only a copy of Local 99's original financial statement which was not in compliance with Regulation 32125(a) (California Administrative Code, title 8, section 32125). Local 99 later provided a statement which did comply. Appellant did not provide any grounds for the appeal.

ADMINISTRATIVE APPEALS

EERA

A. DECERTIFICATION PETITION (MOOTNESS)

Fontana Classified Employees Association/NEA and United Steelworkers of America AFL/CIO, and Fontana Unified School District (6/20/88)
(PERB Order No. Ad-169)

The Association filed a petition to decertify United Steelworkers. The Board dismissed the petition and the Association appealed. As the result of a later filed petition, the parties entered into a consent election agreement which called for an election. The Board therefore dismissed the appeal as moot because the only appropriate relief was to order a decertification election and an election was in fact held.

B. ELECTION (BALLOT IMPOUND)

Oakland Unified School District and Unified Teachers of Oakland, AFT Local #771 and Oakland Education Association, CTA/NEA (6/29/88)
(PERB Order No. Ad-171)

The Board denied the Association's request to dismiss its appeal because significant legal issues existed and the representation rights of over 700 employees were at stake. The Board also ordered that the ballots remain impounded and the election stayed until the appeal was decided by the Board.

C. EXTRAORDINARY CIRCUMSTANCES (LATE FILING)

Alhambra City and High School District and California School Employees Association and its Alhambra Chapter #295 and Local 660, Service Employees International Union, AFL-CIO (6/20/88)
(PERB Order No. Ad-170)

The Board denied the Association's request to excuse a late filing of its appeal from dismissal of a decertification petition. Pursuant to PERB Regulation 32136 (California Administrative Code, title 8, section 32136), no extraordinary circumstances existed to excuse the late filing.

D. FINANCIAL STATEMENT

Jules Kimmet v. L.A. City & County School Employees Union, Local 99, SEIU, AFL-CIO (12/18/87)
(PERB Order No. Ad-167)

The Board rejected the "appeal" from the dismissal of a financial statement

complaint for failure to comply with Regulation 32360 (California Administrative Code, title 8, section 32360). Appellant submitted only a copy of Local 99's original financial statement which was not in compliance with Regulation 32125(a) (California Administrative Code, title 8, section 32125). Local 99 later provided a statement which did comply. Appellant did not provide any grounds for the appeal.

E. UNFAIR PRACTICE PROCEDURES

Tony Petrich v. Riverside Unified School District (9/16/87)
(PERB Order No. Ad-166)

The Board denied as moot Charging Party's request to substitute a new hearing officer for a case previously decided by the Board. No evidence of misconduct was demonstrated.

DILLS ACT

UNFAIR PRACTICE PROCEDURES

Joyce A. Ford v. California Correctional Peace Officers Association (4/21/88)
(PERB Order No. Ad-168-S)

The Board denied the appeal of the refusal of an ALJ to disqualify himself from presiding over an administrative hearing pursuant to PERB Regulation 32155(d) (California Administrative Code, title 8, section 32155). The Board found that the appellant did not state appropriate grounds for disqualifying the ALJ on the basis of bias or prejudice.

HEERA

UNFAIR PRACTICE PROCEDURES

William Oandasan v. University of California, Los Angeles (7/14/87)
(PERB Order No. Ad-165-H)

The Board denied Charging Party's request that the scheduled hearing be stayed or abated.

UNFAIR PRACTICE CASES

EERA

A. AGENCY FEE

Patricia L. Clegg v. California Teachers Association (12/30/87)
(PERB Decision No. 652)

The Board upheld the regional attorney's dismissal of Charging Party's allegations that CTA violated section 3543.6(b) of EERA by utilizing deficient collection procedures and deducting incorrect amounts of agency fees. CTA, a statewide affiliate, was not the exclusive representative of Charging Party's bargaining unit. The proper respondent in agency fee challenge cases is the exclusive representative under existing Board precedent.

Patricia L. Clegg v. National Education Association (12/30/87)
(PERB Decision No. 653)

The Board upheld the regional attorney's dismissal of Charging Party's allegations that NEA violated section 3543.6(b) of EERA by utilizing deficient collection procedures and deducting incorrect amounts of agency fees. NEA, a national affiliate, was not the exclusive representative of Charging Party's bargaining unit. The proper respondent in agency fee challenge cases is the exclusive representative under existing Board precedent.

JoAnn Henkel, et al. v. California Teachers Association (12/31/87)
(PERB Decision No. 655)

Charging Parties appealed the regional attorney's dismissal of allegations the CTA violated EERA sections 3543.6(b), 3544.9 and 3543 by using unconstitutional procedures in the deduction of fees from Charging Parties' salaries.

The Board concurred with the regional attorney's analysis that the proper respondent in an agency fee challenge case is the exclusive representative. Affiliation with the exclusive representative is insufficient to cite the statewide representative (CTA) as the charged party.

JoAnn Henkel, et al. v. National Education Association (12/31/87)
(PERB Decision No. 656)

Charging Parties appealed the regional attorney's dismissal of allegations that the NEA violated EERA sections 3543.6(b), 3544.9 and 3543 by using unconstitutional procedures in the deduction of fees from Charging Parties' salaries.

The Board concurred with the regional attorney's analysis that the proper respondent in an agency fee challenge case is the exclusive representative. Affiliation with the exclusive representative is insufficient to cite the national representative (NEA) as the charged party.

Barbara C. Abbot v. California Teachers Association (5/20/88)
(PERB Decision No. 665)

The Board affirmed the regional attorney's dismissal of the charge that the Association violated Charging Party's 1st and 14th Amendment rights by using unconstitutional procedures in deducting agency fees from the employee's salary under Chicago Teachers' Union v. Hudson (1986) 475 U.S. 292, 89 L.Ed.2d 232. The proper respondent in an agency fee challenge case is the exclusive representative (San Ramon Valley Educators Association) not the statewide affiliate (CTA), under existing Board precedent. The charge failed to state a prima facie case.

B. COLLATERAL ESTOPPEL

California School Employees Association, Chapter 512 v. Kern County Office of Education (7/14/87)
(PERB Decision No. 630)

The Board affirmed the ALJ's finding that Charging Party's complaint should be dismissed due to Charging Party's failure to state a prima facie case pursuant to Novato Unified School District (1982) PERB Decision No. 210. The Board also stated that the theory of collateral estoppel may bar relitigation of issues which have been heard and decided in a prior proceeding before a local personnel commission.

Elizabeth I. Baddour v. San Diego Unified School District (8/18/87)
(PERB Decision No. 631)

The Board remanded this case for further hearing regarding the applicability of collateral estoppel. The ALJ failed to provide the parties an opportunity to make a complete presentation to determine if all elements of collateral estoppel were present.

C. DEFERRAL TO ARBITRATION

Elsinore Valley Education Association, CTA/NEA v. Lake Elsinore School District (12/18/87)
(PERB Decision No. 646)

The Board affirmed the ALJ's conclusions that the District violated EERA section 3543.5(c), and derivatively section 3543.5(a) and (b), by: unilaterally changing the method of compensating teachers for extra duties performed during the summer of 1983; unilaterally implementing a proposed \$1,500 stipend for teachers assigned to the newly created learning specialist classification, and bypassing the exclusive representative by directly

negotiating with a unit member to reduce her 1983/84 and 1984/85 work years.

The Board reversed the finding that the District violated section 3543.5(c) by failing to give the Association notice and an opportunity to negotiate the effects of its decision to reduce School Improvement Project (SIP) instructional aide time. The reduction in SIP aides' hours exerted only an indirect and speculative impact on the workdays of teachers and thus was not required to be negotiated pursuant to Mt. Diablo Unified School District (1983) PERB Decision No. 373.

The Board also reversed the ALJ's determination that the District violated EERA by unilaterally extending the workday of grades 4-6 teachers for four days during the 1983 fall conference week. The Board found that, pursuant to EERA section 3541.5(a), it was without jurisdiction to resolve the unfair practice charge since the parties' contract provided for binding arbitration, the dispute was covered by the agreement, and the conduct charged was prohibited by the parties' collective bargaining agreement. The Board overruled Dry Creek Joint Elementary School District (1980) PERB Order No. Ad-81a to the extent that it conditioned prearbitration deferral under EERA upon the private sector Collyer Insulated Wire (1971) 192 NLRB 837 standards. Board regulation 34246 (California Administrative Code, title 8, section 34246) requiring assertion of an affirmative defense of deferral, cannot override the express statutory jurisdictional limitation.

D. DERIVATIVE VIOLATION

California School Employees Association and its Tahoe-Truckee Chapter No. 383 v. Tahoe-Truckee Unified School District (5/27/88)
(PERB Decision No. 668)

The employer and union agreed that certain printing and repair jobs were subject to contracting out; other jobs could be subcontracted only after negotiations with the union. The Board ruled that, for the events within the six-month limitation period, the subcontracting was an unlawful unilateral change. The Board disaffirmed the proposed decision finding a section 3543.5(a) derivative violation, stating that there was "no evidence that individual rights as such were abrogated."

For events that occurred prior to the six-month statutory period, and incidents not included in the charge, the Board reversed the ALJ's finding of violation because the conduct was unalleged and not fully litigated. The Board cited NLRB precedent holding that violations based on unalleged conduct requires adequate notice and opportunity to defend.

E. DISCRIMINATION

Tony Petrich v. Riverside Unified School District (11/23/87)
(PERB Decision No. 639)

The Board affirmed a proposed decision which found that Charging Party had failed to state a prima facie case. The allegations involved placement of Charging Party on paid leave, his discharge from employment and unilateral alteration

of portions of the dismissal procedures specified by the collective bargaining agreement.

The Board stated that the employer's failure to conduct an independent investigation of a supervisor's charges of misconduct or poor job performance does not itself reflect unlawful motivation. Such action must instead be evaluated on a case-by-case basis. The factors include whether the employer has a policy or practice of conducting such investigations and whether the record otherwise reflects anti-union animus on the part of the supervisor or the reviewing decision-maker. Charging Party failed to present any evidence that would cast suspicion upon the failure to conduct an independent investigation.

Isis Villar and Los Angeles City & County Employees Union, Local 99, SEIU, AFL-CIO v. Los Angeles Unified School District (3/16/88)
(PERB Decision No. 659)

The Board affirmed the proposed decision in part and reversed in part. The Board reversed the finding that the District discriminated against Charging Party by giving her a "meets performance standards," rather than an "exceeds performance standards," rating on her annual performance evaluation. Any animus the principal harbored was not shown to affect the evaluation because the principal merely accepted the rating recommended by the employee's supervisor, whose animus was not demonstrated.

The Board affirmed the finding that comments made by the principal were made in a manner which, in light of surrounding circumstances, could be reasonably understood as implied threats of adverse action should instructional aides consult their union before first bringing their complaints to her.

The Board also affirmed the ALJ's denial of Charging Party's motion to amend the complaint to add the allegation that Charging Party was discriminated against in her removal as noontime aide director. The Board concluded that the matter was not fully litigated in light of Charging Party's specific denial at the hearing that the issue, which had been dismissed by the regional attorney and not appealed, would be pursued as an independent violation.

Palo Verde Teachers Association v. Palo Verde Unified School District (6/30/88)
(PERB Decision No. 689)

This unfair practice case concerned the relocation of the extra-duty office location of an employee-union activist. The proposed decision concluded that the relocation was unlawful discrimination but dismissed allegations of interference and constructive discharge.

The Board decision reversed the conclusion of unlawful discrimination under the Novato Unified School District (1982) PERB Decision No. 210 standard. The Board expressly found that a discrimination charge may not be made out absent "adverse action". The Board applied an objective test in determining whether relocation of the extra duty office actually resulted in injury to the employee. The employee's duties remained the same, he retained the same pay and his workday was shortened. Thus, there were no adverse consequences from the relocation of the office.

The Board also analyzed whether the relocation was motivated by the employee's participation in protected activities. Although the relocation resulted from the employee's participation in protected activities, the District effectively rebutted inferences of unlawful motive. The

relocation was supported by the District's interest in protecting the integrity of its managerial communications and was inexorably tied to threatened strike activity.

F. DOMINATION OR ASSISTANCE

Compton Community College
Federation of Employees v. Compton
Community College District
(12/21/87)
(PERB Decision No. 649)

The Board affirmed the regional attorney's partial dismissal of Charging Party's third amended charge.

The Association alleged that a part-time journalism instructor and bargaining unit employee, who was also a public information assistant/consultant for the District, sent a letter to all part-time instructors expressing his negative opinions about the Association. Charging Party further alleged that the employee was not acting as an individual faculty member but as an agent of the District.

The employee allegedly was in possession of a list of names and addresses only available in District records, and a District secretary assisted him in addressing and stamping envelopes.

The Board concluded that the Association failed to state a prima facie violation of EERA section 3543.5(d). No facts were offered to support an agency relationship. The Association admitted access to a list of names and addresses of part-time employees prior to circulation of the employee's letter and there was no allegation that the District provided the names and addresses to the employee. No facts were alleged regarding the nature of the secretary or the employee's employment status

when the envelopes were stamped. To make a prima facie showing of agency relationship, Charging Party must allege facts outside of an employment relationship; specifically, that the employee was acting under District direction, instigation, approval or ratification.

California School Employees
Association and its Beatrice Chapter
No. 509 v. Redwoods Community
College District (12/28/87)
(PERB Decision No. 650)

The Board affirmed the ALJ's decision that the Classified Employees Council (CEC), established by the employer, was an employee organization and the District unlawfully interfered with, supported and dominated the CEC. The Board noted that the CEC was designed as a representative body with a primary purpose of making recommendations to management, distinguishing NLRB cases where groups which merely discussed matters with management, or groups to which management delegated decision-making, were not "labor organizations."

G. DUTY OF FAIR REPRESENTATION

Clemon Morgan v. Los Angeles City
and County School Employees Union,
Local 99 (12/18/87)
(PERB Decision No. 645)

The Board affirmed the regional attorney's dismissal, for failure to state a prima facie case, of Charging Party's allegation that the Union violated EERA sections 3543.6(a), (b) and (c). Charging Party alleged that the Union breached its duty of fair representation by the manner in which it represented him at a dismissal hearing before a hearing officer of the Personnel Commission and not appealing an adverse decision of the hearing officer.

George V. Mrvichin v. California School Employees Association (4/1/88)
(PERB Decision No. 660)

The Board summarily affirmed the regional attorney's dismissal of the charge for failure to state a prima facie violation of EERA sections 3543.6 and 3544.9. The charge alleged that CSEA failed to adequately represent the employee in various grievance and unfair practice charges filed by the employee. The charge lacked evidence that the Association's conduct was arbitrary, discriminatory or in bad faith. PERB proceedings are outside the collective bargaining agreement and no duty to represent arises in them.

George V. Mrvichin v. California School Employees Association (4/1/88)
(PERB Decision No. 661)

The Board summarily affirmed the regional attorney's dismissal of a charge alleging breach of the duty of fair representation for failure to state a prima facie case. The allegations were that the Association failed to provide assistance and properly represent employees in various grievances; refused to respond to employees' suggestions regarding bylaws; violated an internal policy regarding grievance handling, and engaged in collusion with the District against employees' interests.

Oxnard Educators Association (Gorcey and Tripp) (6/20/88)
(PERB Decision No. 681)

The Board affirmed the proposed decision dismissing a charge that the Association breached its duty of fair representation by failing to provide notice of and information about contract proposals before the close of negotiations.

The Board, however, rejected the ALJ's characterization of the

charged conduct as internal union activity over which the Board lacks jurisdiction. The jurisdictional test is whether the conduct has a substantial impact on employees' relationship with their employer. Here, the subject of the proposal was wages, which has such an impact. The crux of the charge was that a union must provide notice and an opportunity to be heard before bargaining ends, and the contract is final and binding, to give substance to unit members' rights to communicate their views.

The Board declined to establish specific procedural standards for such communication, acknowledging negotiating fluidity and the propriety of a case-by-case analysis. No violation was found, however, because the record established that a ratification process existed in which Charging Parties fully participated. Thus, the facts failed to establish that the Association acted arbitrarily, discriminatory or in bad faith.

H. DUTY TO FURNISH INFORMATION

Los Rios Classified Employees Association v. Los Rios Community College District (6/2/88)
(PERB Decision No. 670)

The Board affirmed the ALJ's dismissal of charges alleging that the District violated EERA section 3543.5(c) by its failure to provide the union with copies of a report containing information about nonfaculty positions in the District. The union is not entitled to demand receipt of information in any particular form. The District properly refused to provide the report in its present form—which contained the social security numbers of nonunit employees—in the interest of protecting the employees' privacy. The Board found that the District did not waive its confidentiality rights;

additional affirmative conduct was required to support such a finding. The Board further affirmed the ALJ's conclusion that Charging Party was obligated to make a request to the District to negotiate the costs of providing the report with the social security numbers deleted.

I. EMPLOYEE (DEFINITION)

Jeff D. Paige v. Hacienda La Puente Unified School District (6/24/88)
(PERB Decision No. 685)

Charging Party was a part-time teacher with respondent District. When the District denied his request for leave of absence, he resigned, albeit subject to being rehired. The District refused to rehire him.

Charging Party alleged that the failure to grant leave and failure to rehire was discriminatory due to his participation in protected activity.

The Board found that the charge of denial of the leave was untimely filed and, further, the denial was not discriminatory. The Board also rejected the "constructive discharge" claim. Finally, the Board ruled that the failure to rehire Charging Party was not covered by the Act because applicants for employment, as non-employees, are excluded from the coverage of EERA. The statute is unambiguous, defining an employee as a person employed, not one who has invoked the hiring process. Moreover, the position sought by Charging Party no longer existed and the employer would have taken the same course of action regardless of Charging Party's protected activity. Thus, the complaint was dismissed.

Mary Ann Tittle v. Los Angeles Unified School District (6/24/88)
(PERB Decision No. 686)

The Board upheld the Board agent's dismissal of an unfair practice charge alleging refusal to rehire Charging Party. Applying Hacienda La Puente USD (1988) PERB Decision No. 685, applicants are not covered under EERA. Charging Party may not assert a violation of section 3543.5(c) of the District's refusal to bargain. Only the exclusive representative may do so, according to existing Board precedent (Oxnard School District (1988) PERB Decision No. 667).

J. EMPLOYER (DEFINITION)

United Public Employees, Local 790 v. San Francisco Community College District (6/27/88)
(PERB Decision No. 688)

The union filed unfair practice charges alleging a unilateral change barring classified personnel from also serving as certificated employees. A separate unfair practice charge was filed by the union representing certificated employees based on the same facts. A consolidated hearing was held, but separate decisions issued.

The proposed decision found that the Board had jurisdiction over the charge filed by the classified union; however, the dispute related solely to certificated staff and thus was beyond the scope of representation for the classified union. The ALJ dismissed the complaint.

The Board, overruling San Francisco Community College District (1986) PERB Order No. Ad-153 (District

was the joint employer of classified employees with the City and County of San Francisco), concluded that the District was not a public school employer of classified employees. The San Francisco City Charter, which controls wages, hours and other terms and conditions of employment, placed those subjects beyond the control of the District, thereby preventing the opportunity to conduct any meaningful negotiations over subjects within the scope or bargaining. The only authority possessed by the District was to assign and fix the duties of classified employees. Although the District had voluntarily recognized Local 790, and entered into an agreement with the Union, this voluntary action could not create jurisdiction where none existed under the Education Code. The Board also relied upon Alameda County Board of Education (1983) PERB Decision No. 323, and NLRB determinations focusing on whether the alleged employer has "sufficient control" over the employment conditions of employees so as to satisfy bargaining obligations.

The union has filed a request for reconsideration and the case is pending before the Board.

K. NEGOTIATIONS

Fremont Education Association, CTA/NEA v. Fremont Union High School District (12/30/87)
(PERB Decision No. 651)

The Board reversed the ALJ's finding that the District violated section 3543.5(c), and derivatively section 3543.5(a) and (b), of the EERA by failing to give the Association notice and an opportunity to negotiate the effects of its nonnegotiable decision to lease facilities to a private

institution to conduct non-mandated summer school classes. The Board found that the lease was not a subcontracting of, nor did it replace, bargaining unit work. Finding no actual negotiable effects of the lease, and rejecting the argument that management has the obligation to negotiate purely speculative effects, the Board ordered dismissal of the complaint.

Poway Federation v. Poway Unified School District (6/15/88)
(PERB Decision No. 680)

The Board reversed the ALJ's finding that the employer violated EERA section 3543.5(c) by unilaterally establishing the compensation and scheduling of a one half-day voluntary professional seminar for new teachers held on nonduty time. The Board rejected the conclusion that all in-service training is negotiable. Instead, the Board found that such training must be bargained only where there is a direct impact on wages and hours. The in-service training was purely voluntary and was not held during the calendar year or during duty hours. Since there was no impact, the training was not a bargainable subject within the meaning of Anaheim Union HSD (1981) PERB Decision No. 177. Furthermore, by bargaining, the District did not waive its right to terminate negotiations on this nonmandatory subject.

San Diego Adult Educators, Local 4289, American Federation of Teachers/California Federation of Teachers, AFL-CIO v. San Diego Community College District (4/5/88)
(PERB Decision No. 662)

The district-employer contracted with a private, non-profit Foundation

so that the latter offered language classes no longer presented by District's Adult School. Affirming the ALJ, the Board found that although District could lawfully cease to offer the classes, it violated EERA when it contracted out the work formerly done by bargaining unit members.

The Board ruled that the charge was timely because although service was not effected within the six-months statute of limitation period, the charge itself was timely filed.

Respondent was served soon after the charge was filed and alleged no prejudice.

L. SUPERVISORS

John Howard Leonard v. Cottonwood Union School District (6/27/88)
(PERB Decision No. 687)

The Board affirms the ALJ's dismissal of an unfair practice charge alleging that the District unlawfully reassigned a principal due to his refusal to discourage unionism. Although a supervisor may assert the right to refuse an employer's demand to prevent unionization as protected activity under EERA, Charging Party was unable to prove such alleged facts at the hearing. Charging Party posted unionism articles at the worksite and the decision to reassign him resulted from dissatisfaction with his performance as an administrator.

M. UNFAIR PRACTICE PROCEDURES

Wilcia Smith Moore v. Berkeley Federation of Teachers, Local 1078, AFL-CIO (2/22/88)
(PERB Decision No. 658)

Charging Party alleged that the Union failed to negotiate in good

faith with the employer over certain subjects of interest to Charging Party. The Board ruled that a unit member has no standing to allege a breach of duty to bargain. Such a right belongs only to the employer because the duty to bargain in good faith applies mutually to the employer and the exclusive representative.

The Board also dismissed the allegations of breach of duty of fair representation and discrimination, finding no facts indicating breach in the bargaining obligation and no facts of discrimination based on protected activity.

Oxnard Educators Association (Gorcey and Tripp) (5/5/88)
(PERB Decision No. 664)

Charging Parties alleged that the Association violated Education Code section 45028 and EERA sections 3543.6(c) and 3544.9 by bargaining for a salary schedule outside the scope of EERA section 3543.2(d). The regional attorney dismissed the alleged Education Code violation for jurisdictional reasons and dismissed the 3543.6(c) and 3544.9 allegations for failure to state a prima facie case.

The Board affirmed the regional attorney's dismissal of the Education Code allegation. The Board also affirmed the dismissal of the 3543.6(c) violation because Charging Parties lacked standing to bring charges against the Association for failure to negotiate in good faith with the District. The Board reversed the regional attorney's dismissal of the 3544.9 duty of fair representation charge, finding that Charging Parties had stated a prima facie case that the Association's conduct in negotiating a salary schedule unfavorable to them was arbitrary,

discriminatory, or in bad faith. The case was remanded to the General Counsel for issuance of a complaint. The Association filed a Request for Reconsideration, which is pending before the Board.

Judith Mae Gorcey and Jan Marie Tripp v. Oxnard School District
(5/26/88)
(PERB Decision No. 667)

The Board affirmed the regional attorney's dismissal of Charging Parties' allegation that the District violated EERA section 3543.5(c) by bargaining a salary schedule outside the scope of EERA section 3543.2(d), which permits the parties to negotiate the payment of additional compensation for teachers upon criteria other than years of training and years of experience. The Board found that Charging Parties, as individual employees, did not have standing to allege that the District refused to negotiate in good faith in violation of EERA section 3543.5(c). The Board expressly overruled South San Francisco Unified School District (1980) PERB Decision No. 112, characterizing that case's reliance on NLRB precedent as based on "statutory dissimilarities," and concluding that South San Francisco is contrary to the exclusivity principle. The Board further held that it lacked jurisdiction to enforce contracts and the Education Code.

Bobby J. Fikes v. Chaffey Joint Union High School District; and Fikes v. Associated Chaffey Teachers Organization (5/31/88)
(PERB Decision No. 669)

The Board found Charging Party had standing to file unfair practice charges, whether or not he voted during an agency fee election. Standing arises from the alleged

"rigged" election and the need to maintain integrity in the election process.

The Board also found that Charging Party's allegations, considered in their totality, stated a prima facie case of interference by the exclusive representative during the election. Such allegations included the exclusive representative's removal of election notices, assent to a consent election agreement containing limited polling hours and locations, and selective notification to only those unit members believed to approve of agency fee. The exclusive representative's alleged conduct, when considered in its totality, was also sufficient to state a prima facie case of breach of the duty of fair representation. An agency fee election is not solely an internal union matter according to the Board, and the Board agent's approval of a consent election agreement did not immunize the Association. The conduct alleged also stated a violation of section 3546.

The Board also invoked the totality of circumstances test in evaluating Charging Party's allegations against the District. The Board found that Charging Party alleged a prima facie case of interference. Relevant allegations include the District's alleged failure to post agency fee election notices, assent to a consent election containing limited polling hours and locations, and instructions to site administrators not to publicize the election. The Board reversed the regional attorney's partial dismissal of charges and directed the General Counsel to issue complaints.

Gladys M. Bracey v. Los Angeles Unified School District (6/8/88)
(PERB Decision No. 674)

The Board affirmed the ALJ's dismissal of charges alleging that the employer discriminated against Charging Party by placing her on unpaid, mandatory sick leave because of her exercise of protected activity. The complaint was properly dismissed due to Charging Party's refusal to proceed. Charging Party was not entitled to refuse to participate because she disagreed with the ALJ's rulings; her recourse was to file exceptions to the proposed decision.

California School Employees Association and its San Juan Chapter 127 v. San Juan Unified School District (6/10/88)
(PERB Decision No. 679)

The Board granted the General Counsel's request for remand, and further investigation, after appeal from dismissal by the Board agent.

N. UNILATERAL CHANGE

Trinidad Teachers Association, CTA/NEA v. Trinidad Union Elementary School District; Peninsula Teachers, NHTA/CTA/NEA v. Peninsula Union School District (7/8/87)
(PERB Decision No. 629)

The Board reversed the ALJ's finding that the Districts' unilateral decisions to join a multi-employer self-funded insurance group for dental coverage violated EERA.

The Board concluded that a change to a self-funded plan does not, without more, result in a per se violation of EERA. The Board reasoned that it is not enough to theorize whether the joint powers agreement could potentially cause problems for its members, or whether the joint

powers agreement resulted in a less well-established or less reliable carrier. There must be some cogent evidence that changes have happened, or will happen, which have significantly changed or will significantly change employee benefits.

Tony Petrich v. Riverside Unified School District (8/26/87)
(PERB Decision No. 632)

The Board affirmed the ALJ's dismissal of allegations that the employer refused to hold grievance meetings, docked Charging Party's pay, or changed Charging Party's work schedule without negotiating with the exclusive representative. The Board also found no evidence of bias by the ALJ.

Los Rios Classified Employees Association v. Los Rios Community College District (11/3/87)
(PERB Decision No. 638)

The Board upheld the regional attorney's dismissal of Charging Party's allegation that the District unilaterally changed its procedure for requesting vacation leave. The charge failed to state a prima facie violation of EERA. No past practice or policy had been demonstrated.

Palo Verde Teachers Association, CTA/NEA v. Palo Verde Unified School District (12/15/87)
(PERB Decision No. 642)

The Board affirmed the ALJ's finding that the District violated EERA section 3543.5(c), and derivatively sections (a) and (b), by unilaterally implementing a 6 percent salary agreement while the parties were negotiating for a collective bargaining agreement. The District failed to establish that its actions were justified.

The Board reversed the finding that the school board's adoption of a resolution concerning substitute teachers in the event of a strike was an unlawful threat to change working conditions. Adoption of the resolution was not charged or contained in the complaint and the resolution was neither introduced into evidence nor mentioned in the parties' post-hearing briefs. Thus the matter was not fully litigated.

Elsinore Valley Education Association, CTA/NEA v. Lake Elsinore School District (5/23/88)
(PERB Decision No. 666)

The Board reversed in part and affirmed in part the proposed decision. The Association claimed that the District violated EERA section 3543.5(c) and derivatively 3543.5(a) and (b), when it unilaterally changed the meeting time and composition of the membership of a District advisory committee on instructional matters. At the outset, the Board found that a purpose of the committee was consultation rights under Government Code section 3543.2.

The ALJ found that the change in meeting time was a one-time occurrence and, therefore, not a change in policy, and dismissed this portion of the complaint. The Board affirmed. As to the change in composition of the committee, the Board reversed the ALJ's finding of an unlawful unilateral change. The Board held that the District's action did not amount to a change of policy; the addition of four nonvoting members did not materially affect employment terms and conditions in the bargaining unit or alter the parties' established practice under their previous oral agreement. Alternatively, the Board found that the addition of the nonvoting members had no resulting generalized material and significant effect on the unit members' statutory right to consult.

Savanna District Teachers Association v. Savanna School District (6/7/88)
(PERB Decision No. 671)

The regional attorney issued a partial dismissal of allegations that the employer's action in joining a joint powers authority for health insurance coverage was a unilateral change in terms and conditions of employment. The Board sustained the dismissal on all but one issue.

The Board ordered that a complaint issue on the allegation that joining the joint powers authority "effected a material and significant change" in the amounts of the contributions made by unit members to ensure continued eligibility for benefits. Such an allegation, the Board reasoned, reflected "an actual change that has happened." A prima facie case of unilateral change in violation of EERA section 3543.5(c) was therefore stated.

Huntington Beach Elementary Teachers Association v. Huntington Beach City School District (6/7/88)
(PERB Decision No. 672)

See summary of Savanna School District, PERB Decision No. 671, supra.

Ocean View Teachers Association v. Ocean View School District (6/7/88)
(PERB Decision No. 673)

See summary of Savanna School District, PERB Decision No. 671, supra.

Anaheim Elementary Education Association, CTA/NEA v. Anaheim City School District (6/9/88)
(PERB Decision No. 675)

See summary of Savanna School District, PERB Decision No. 671, supra.

Magnolia Educators Association, CTA/NEA v. Magnolia Elementary School District (6/9/88)
(PERB Decision No. 676)

See summary of Savanna School District, PERB Decision No. 671, supra.

Westminster Teachers Association, CTA/NEA v. Westminster School District (6/9/88)
(PERB Decision No. 677)

See summary of Savanna School District, PERB Decision No. 671, supra.

Saddleback Community College District Faculty Association v. Saddleback Community College District (6/10/88)
(PERB Decision No. 678)

See summary of Savanna School District, PERB Decision No. 671, supra.

O. WAIVER

Los Rios Classified Employees Association v. Los Rios Community College District (6/23/88)
(PERB Decision No. 684)

The Board affirmed the proposed decision dismissing a unilateral change allegation, finding that the Association waived the right to bargain over the 1985-86 classified calendar because it refused the District's offer to bargain. However, the Board's analysis differed. The ALJ rejected the Association's reliance on the contractual zipper clause, stating that only an employer may rely on a zipper clause to defend a refusal to bargain, and a zipper clause applies to terms and conditions of employment not covered by the contract only where the contract expressly allows or negotiating history reflects mutual agreement to such application.

The Board found the charge timely filed, an issue the ALJ did not address. The Board concluded that, despite the Association's refusal to bargain over the calendar in early 1985, the District's actions misled the Association into believing there was agreement to defer the issue until fall reopener negotiations. The Association did file the charge within six months of learning that the District had actually adopted the calendar.

The Board also held that the Association could assert the zipper clause as a defense to a refusal to bargain a change in the status quo whether fixed by contract or past practice. The Board reasoned that zipper clauses are not inherently inconsistent with bargaining rights and will be given the scope warranted by their language. The zipper clause allowed both parties to insist upon adherence to established past practice, but the Association misconstrued the relevant past practice. Rather than a static practice of observing Lincoln's Birthday on a day which created, in conjunction with Washington's Birthday, two three-day weekends, the past practice was to informally negotiate calendar issues in the winter or early spring of each year. By refusing to take part in that process, the Association clearly and unmistakably waived its right to bargain over the 1985-86 calendar.

DILLS ACT

A. AGENCY FEE

Marilyn K. Mayer v. Association of California State Attorneys and Administrative Law Judges (10/6/87)
(PERB Decision No. 637-S)

The Board upheld the regional attorney's dismissal of an unfair practice charge for failure to state a

prima facie case. Charging Party alleged that the Association violated the Dills Act by refusing to recognize her "long-held conscientious objections to belonging to a labor union," rather than her membership in a religious organization, as a basis for diverting her fair share fees to an appropriate charitable organization under section 3515.7(c). The Board also dismissed Charging Party's allegation that section 3515.7(c) is contrary to the California and U.S. Constitutional prohibitions against government aid to or entanglement with religious organizations.

Robert C. Eckstein v. California Union of Safety Employees (12/18/87) (PERB Decision No. 643-S)

The Board reversed the dismissal of an unfair practice charge alleging that the exclusive representative used agency fees improperly by making payments to affiliates based on Chicago Teachers Assn. v. Hudson (1986) 475 U.S. 292, 89 L.Ed.2d 232. Complaint issued on the allegations that agency fees were used for activities unrelated to negotiation or contract administration and that the union failed to provide a hearing for Charging Party's challenge.

Robert C. Eckstein v. Police Officers Research Association of California and California Association of Food and Drug Officials (12/18/87) (PERB Decision No. 644-S)

The Board affirmed the regional attorney's dismissal of the charge that affiliate organizations violated their duty of fair representation by receipt of agency fee amounts from exclusive representatives. The proper respondent for agency fee challenges is the exclusive representative, since the exclusive representative is liable for the affiliates' use of the fees.

The Board relied on its rationale set forth in Eckstein v. CAUSE (1987) PERB Decision No. 643-S.

B. DUTY OF FAIR REPRESENTATION

Joab Pacillas v. California Correctional Peace Officers Association (12/31/87) (PERB Decision No. 657-S)

The Board summarily affirmed the regional attorney's dismissal for failure to allege a prima facie breach of the duty of fair representation. The union's alleged refusal to pursue a request for reasonable accommodation with the State Personnel Board is a matter outside the collective bargaining agreement to which the statutory duty of fair representation does not extend.

James Alin Moore v. American Federation of State, County and Municipal Employees, Local 2620 (6/20/88) (PERB Decision No. 683-S)

Charging Party alleged that the union breached its duty of fair representation when it failed to present certain evidence and witnesses at a State Personnel Board (SPB) disciplinary hearing. The Board sustained the regional attorney's dismissal of the unfair practice charge based on existing Board precedent because the SPB hearing was extra-contractual and no duty of fair representation attached to the union's actions. The union representative could assert Charging Party's innocence at the SPB hearing and also urge the union not to take his grievance to arbitration without violating the duty of fair representation. Additionally, the six-month statute was not tolled while the Charging Party tried to convince the union to take his case to arbitration.

C. NEGOTIATIONS

California State Employees Association v. California Community Colleges (10/6/87)
(PERB Decision No. 636-S)

The Board upheld the regional attorney's dismissal of an unfair practice charge for failure to state a prima facie case. It was alleged that the California Community Colleges unlawfully transferred the duty of conducting community college evaluations from State Bargaining Unit 3 to State Bargaining Unit 1 in violation of the Dills Act. No established policy, contract section or past practice had been changed and there was no showing that the work had been assigned exclusively to Unit 1 employees.

Professional Engineers in California Government v. State of California (Department of Personnel Administration) (12/18/87)
(PERB Decision No. 648-S)

The state employer and the exclusive representative began negotiations for a new contract. The exclusive representative submitted proposals on (1) contracting out; (2) discipline procedures; (3) layoff decisions; (4) promotions; (5) staffing ratios; (6) job action interference; (7) out-of-class claims; and (8) employee assignments. The state employer did not appeal the proposed decision regarding the negotiability of staffing ratios, promotions and out-of-class claims.

The Board ruled that the proposals on contracting out, layoffs, and discipline were outside the scope of representation, either because they were inherent management prerogatives (layoff); constitutionally

deficient (discipline), or so broad that it was not possible to relate the proposals to labor costs and thus no bargaining duty arose (contracting out). The proposals concerning work preservation/transfer and job action interference/assignment of work were negotiable and the state employer unlawfully refused to negotiate such subjects.

D. REPRESENTATION RIGHTS

California State Employees' Association v. State of California (Department of Forestry) (6/30/88)
(PERB Decision No. 690-S)

The Board affirmed the proposed decision dismissing charges that the state employer unlawfully denied union representation at an investigatory interview which the employee reasonably believed could result in disciplinary action, i.e., "Weingarten Rights". The ALJ determined that the employee was not denied representation because the employee never requested representation at the interview.

The Board incorporated the ALJ's findings of facts and conclusions of law as to the Weingarten analysis. The Board cited its prior holding in Regents of the University of California (1983) PERB Decision No. 310-H, that the employee must request representation and rejected Charging Party's argument that the employer was obliged to inform her of her representational rights.

The Board disavowed the proposed decision insofar as it concerned deferral to arbitration. The Board concluded that such analysis was unnecessary to the resolution of the case.

E. SETTLEMENT AGREEMENT

George S. Stewart, D.D.S. v. Union of American Physicians and Dentists
(4/13/88)
(PERB Decision No. 663-S)

The Board affirmed the proposed decision dismissing the complaint on the ground that Charging Party was bound by a settlement agreement voluntarily negotiated and executed at an earlier date by the parties. The Board rejected Charging Party's argument that he had the right to cancel the settlement agreement because he received a payment from the union five days late. Charging Party acted in bad faith in attempting to rescind the agreement. The Board added that time was not of the essence pursuant to the agreement, nor was Charging Party prejudiced as a result of the delay. Therefore, there was no material breach or failure of condition.

HEERA

A. DISCRIMINATION

Georgette Bradley v. California State University, Long Beach (12/11/87)
(PERB Decision No. 641-H)

The Board summarily affirmed the ALJ's dismissal of allegations of discrimination and reprisal for protected activity. Charging Party failed to establish that the denial of an annual merit salary adjustment, negative performance evaluation, lack of job accommodations, and placement on involuntary disability leave violated HEERA section 3571(a).

The Board additionally held that merely including the name of a union representative among those individuals receiving copies of correspondence, without more

evidence of an intent to solicit union assistance, does not constitute protected conduct. Such conduct depends on its context and must be decided on a case-by-case basis.

B. DUTY OF FAIR REPRESENTATION

Elizabeth Olson v. American Federation of State, County and Municipal Employees, Council 10
(6/20/88)
(PERB Decision No. 682-H)

The Board affirmed the regional attorney's dismissal of unfair practice charge alleging breach of duty of fair representation. The union representing Charging Party at a grievance hearing may have been negligent, but its conduct was not shown to be discriminatory, arbitrary, or motivated by bad faith.

C. NEGOTIATIONS

University Council, AFT, AFL-CIO v. Regents of the University of California (12/10/87)
(PERB Decision No. 640-H)

The proposed decision found that the University refused to bargain over negotiable aspects of a reorganization plan. Specifically, the University failed to bargain over: (1) the decision to transfer the speech lecturers to the Writing Program; (2) the effects of a contemplated de facto disestablishment of the Speech Department; and (3) the effects on lecturers of placing greater reliance on Senate faculty.

The Board affirmed in part. It reversed the findings that the decision to transfer the Speech courses to the Writing Program was negotiable and the University unlawfully failed to provide notice and a reasonable opportunity to bargain prior to September 10, 1984.

While abandonment of negotiable aspects of the plan extinguished the duty to bargain, it did not excuse the prior refusal to bargain before such abandonment. Thus, the University violated its duty to bargain the effects of the reorganization.

D. SETTLEMENT AGREEMENT

California Faculty Association v. California State University (9/24/87)
(PERB Decision No. 633-H)

Having settled their dispute arising from negotiations for a new collective bargaining agreement, both parties requested that the Board vacate the proposed decision and dismiss the unfair practice complaint. The Board agreed to the dismissal.

California Faculty Association v. California State University (9/24/87)
(PERB Decision No. 634-H)

The Board granted the parties' request that the proposed decision be vacated and the case dismissed. The request was made pursuant to a settlement agreement reached by the parties as part of their concurrent agreement on a new contract.

California Faculty Association v. California State University (9/24/87)
(PERB Decision No. 635-H)

Having settled their dispute arising from negotiations for a new collective bargaining agreement,

both parties requested that the Board vacate the ALJ's proposed decision and dismiss the unfair practice complaint. The Board concurred in the dismissal.

E. UNILATERAL CHANGE

American Federation of Teachers, Local 1474 v. Regents of the University of California (12/31/87)
(PERB Decision No. 654-H)

The regional attorney dismissed the Union's charge that the University violated HEERA sections 3571(a), (b) and (c), 3565 and 3570 by unilaterally discontinuing its policy of using lecturers already employed by the University for additional service as lecturers in the Rhetoric Department by hiring outside visiting lecturers. Charging Party failed to demonstrate that a policy existed, which had been changed, regarding the employment of bargaining unit employees for additional employment as lecturers. On appeal, Charging Party contended that the General Counsel exceeded its authority by receiving and weighing certain evidence from Respondent regarding its hiring practices.

The Board found that a prima facie case had been stated, reversed and remanded the case to the General Counsel for issuance of a complaint. The Board further affirmed the right of regional attorneys to require production of evidence in the charge investigation process.

INJUNCTIVE RELIEF REQUESTS
7/1/87 to 6/30/88

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION</u>	<u>DATE</u>
265	George Mrvichin v. Chino USD	LA-CE-2571	Unilateral change	7/9/87	Denied	7/14/87
266	Statewide University Police Assn. v. Trustees of the Calif. State Univ.	S-CE-32-H	5-day suspension of union president	7/24/87	Withdrawn	7/28/87
267	Oakland School Employees Assn. v. Oakland USD	SF-CE-1145	Unilateral change	8/17/87	Withdrawn	8/25/87
268	CSEA and its Hesperia Unified Chapter No. 648 v. Hesperia USD	LA-CE-2631	Unilateral change	9/16/87	Withdrawn	9/18/87
269	Oakland School Employees Assn. v. Oakland USD	SF-CE-1145	Unilateral change	9/23/87	Withdrawn	9/25/87
270	United Teachers of Pasadena, CTA/NEA v. Pasadena USD	LA-CE-2672	Unilateral change	11/23/87	Denied	12/4/87
271	Mary Ann Tittle v. Los Angeles USD	LA-CE-2634	Unilateral change	1/11/88	Withdrawn	1/11/88

INJUNCTIVE RELIEF REQUESTS
7/1/87 to 6/30/88

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION</u>	<u>DATE</u>
272	Statewide Univ. Police Assn. v. Trustees of Calif. State Univ.	S-CE-32-H	Suspension of union president	2/16/88	Withdrawn	2/16/88
273	Cantua Creek Federation of Teachers v. Cantua SD	S-CE-1208	Unilateral change (raising employee rents by 100%)	3/8/88(pt) 3/9/88(pt)	Withdrawn	3/11/88
274	Martha O'Connell, et al. v. Calif. State Univ.	SF-CE-271-H	Unilateral change	3/22/88	Withdrawn	3/25/88
275	Orange USD v. Orange Unified Education Assn., Inc.	LA-CO-444	Notice of strike and strike	4/12/88	Withdrawn	4/13/88
276	Orange USD v. Orange Unified Education Assn., Inc.	LA-CO-444	To enjoin assn. from engaging in work stoppage	4/15/88	Withdrawn	4/15/88
277	Hacienda LaPuente USD v. Hacienda LaPuente Teachers Assn., CTA/NEA	LA-CO-445	Pre-impasse strike	5/23/88	Withdrawn	5/23/88

TOTAL ACTIVITY
(EERA - HEERA - RALPH C. DILLS ACT)
REPRESENTATION CASE ACTIVITY
Fiscal Year 1987/88

	<u>Active as of 7-1-87</u>	<u>Cases Filed</u>	<u>Total Active Cases</u>	<u>Closed Cases</u>	<u>Active as of 6-30-88</u>
REPRESENTATION PETITIONS	22	37	59	45	14
DECERTIFICATION PETITIONS	4	36	40	27	13
UNIT MODIFICATION PETITIONS	61	63	124	101	23
ORGANIZATIONAL SECURITY PETITIONS	0	25	25	23	2
AMENDED CERTIFICATIONS	0	5	5	3	2
MEDIATIONS	104	385	489	377	112
FACTFINDINGS	15	70	85	73	12
ARBITRATIONS	6	5	11	11	0
PUBLIC NOTICE COMPLAINTS	2	7	9	7	2
COMPLIANCES	16	25	41	27	14
FINANCIAL STATEMENTS	3	1	4	4	0
OTHER	1	6	7	5	2
TOTAL	234	665	899	703	196

EERA - HEERA - RALPH C. DILLS ACT
UNFAIR PRACTICE CASE ACTIVITY
Fiscal Year 1987/88

	<u>Active as of 7-1-87</u>	<u>Cases Filed</u>	<u>Closed Cases</u>	<u>Active as of 6-30-88</u>
<u>EERA</u>				
CE	248	356	389	215
<u>CO</u>	<u>72</u>	<u>88</u>	<u>89</u>	<u>71</u>
TOTAL	320	444	478	286
 <u>HEERA</u>				
CE	71	51	70	52
<u>CO</u>	<u>5</u>	<u>11</u>	<u>6</u>	<u>10</u>
TOTAL	76	62	76	62
 <u>RALPH C. DILLS ACT</u>				
CE	37	78	76	39
<u>CO</u>	<u>19</u>	<u>16</u>	<u>24</u>	<u>11</u>
TOTAL	56	94	100	50
 <u>TOTAL</u>				
CE	356	485	535	306
<u>CO</u>	<u>96</u>	<u>115</u>	<u>119</u>	<u>92</u>
 GRAND TOTAL	 452	 600	 654	 398

NOTE: "CO" means charge against the Employee Organization
"CE" means charge against the Employer

TOTAL FILINGS - BY ACT
UNFAIR PRACTICE CASES
Fiscal Year 1987/88

CE's

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
JULY	30	4	9	43
AUGUST	22	5	16	43
SEPTEMBER	44	8	4	56
OCTOBER	62	4	4	70
NOVEMBER	25	5	6	36
DECEMBER	25	3	7	35
JANUARY	21	3	2	26
FEBRUARY	29	5	8	42
MARCH	33	2	7	42
APRIL	27	1	7	35
MAY	23	4	2	29
JUNE	15	7	6	28
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TOTAL	356	51	78	485

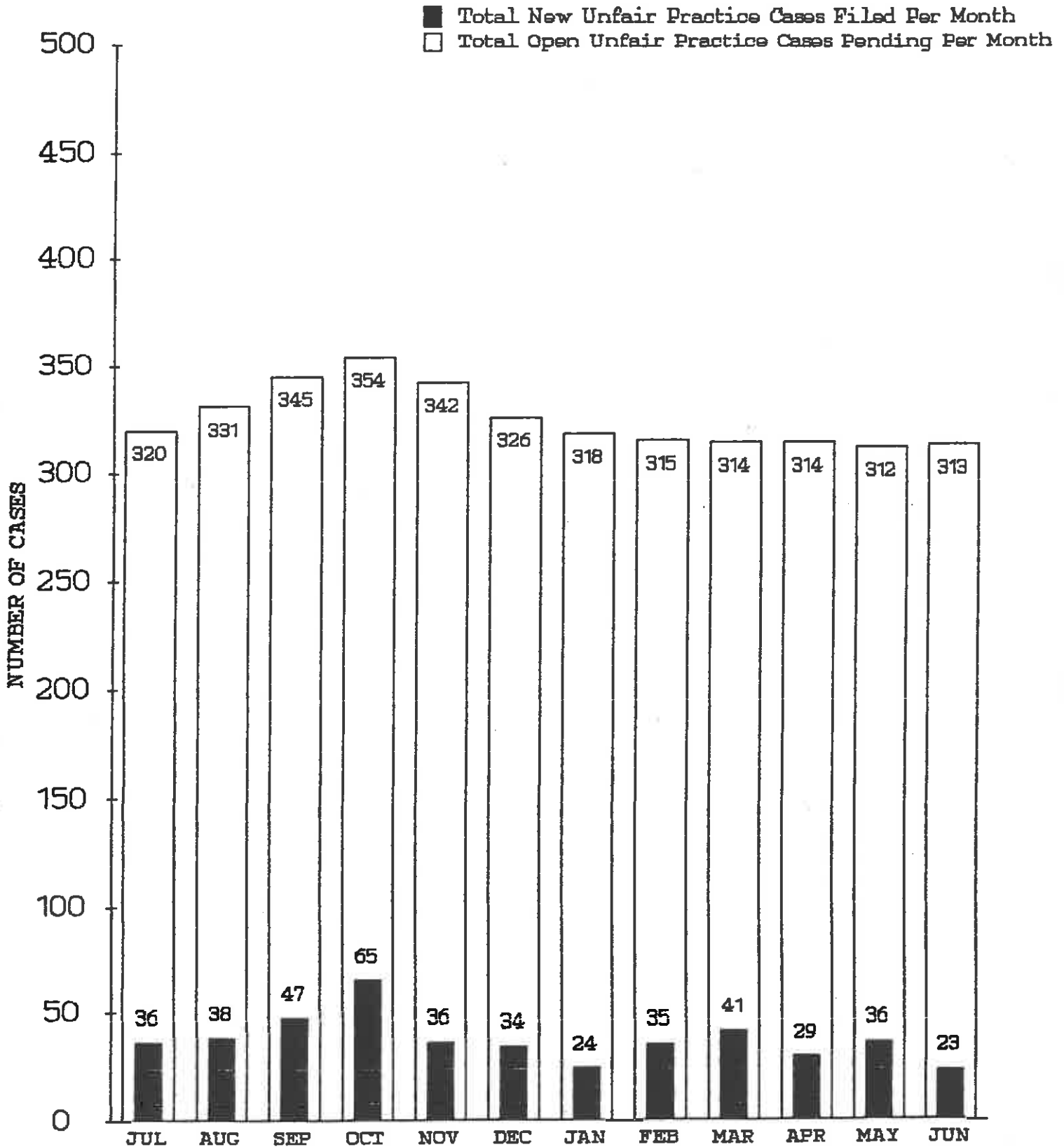
CO's

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
JULY	6	0	0	6
AUGUST	16	0	0	16
SEPTEMBER	3	5	2	10
OCTOBER	3	2	2	7
NOVEMBER	11	0	2	13
DECEMBER	9	0	3	12
JANUARY	3	0	1	4
FEBRUARY	6	0	2	8
MARCH	8	3	1	12
APRIL	2	1	2	5
MAY	13	0	1	14
JUNE	8	0	0	8
<hr/>				
TOTAL	88	11	16	115

GRAND TOTAL	444	62	94	600
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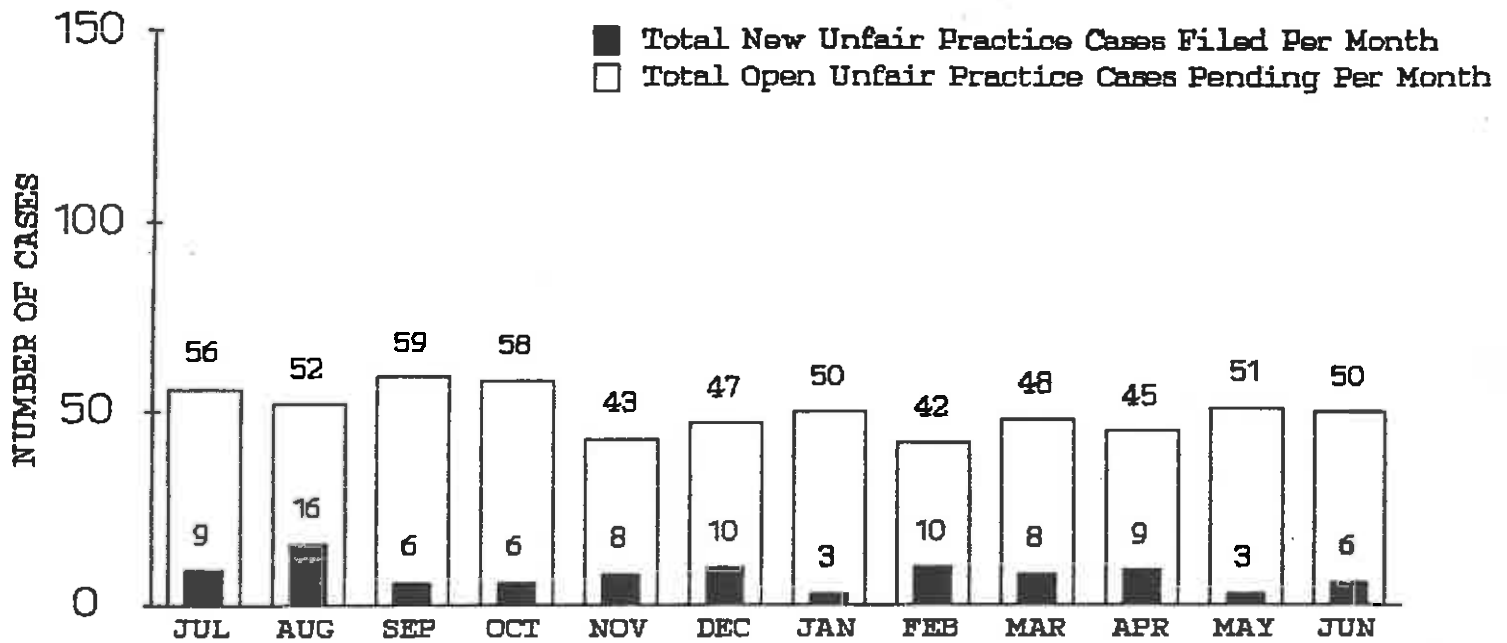
EERA

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1987/88



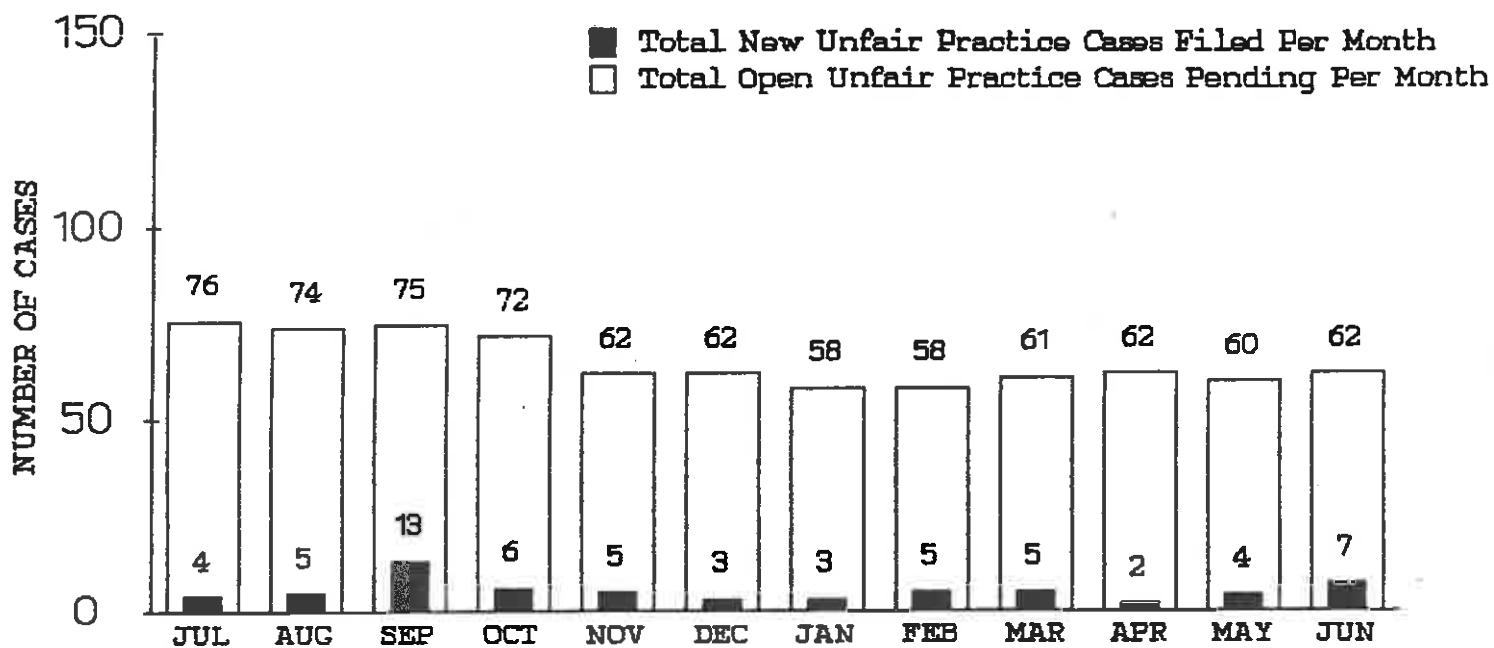
RALPH C. DILLS ACT

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1987/88



HEERA

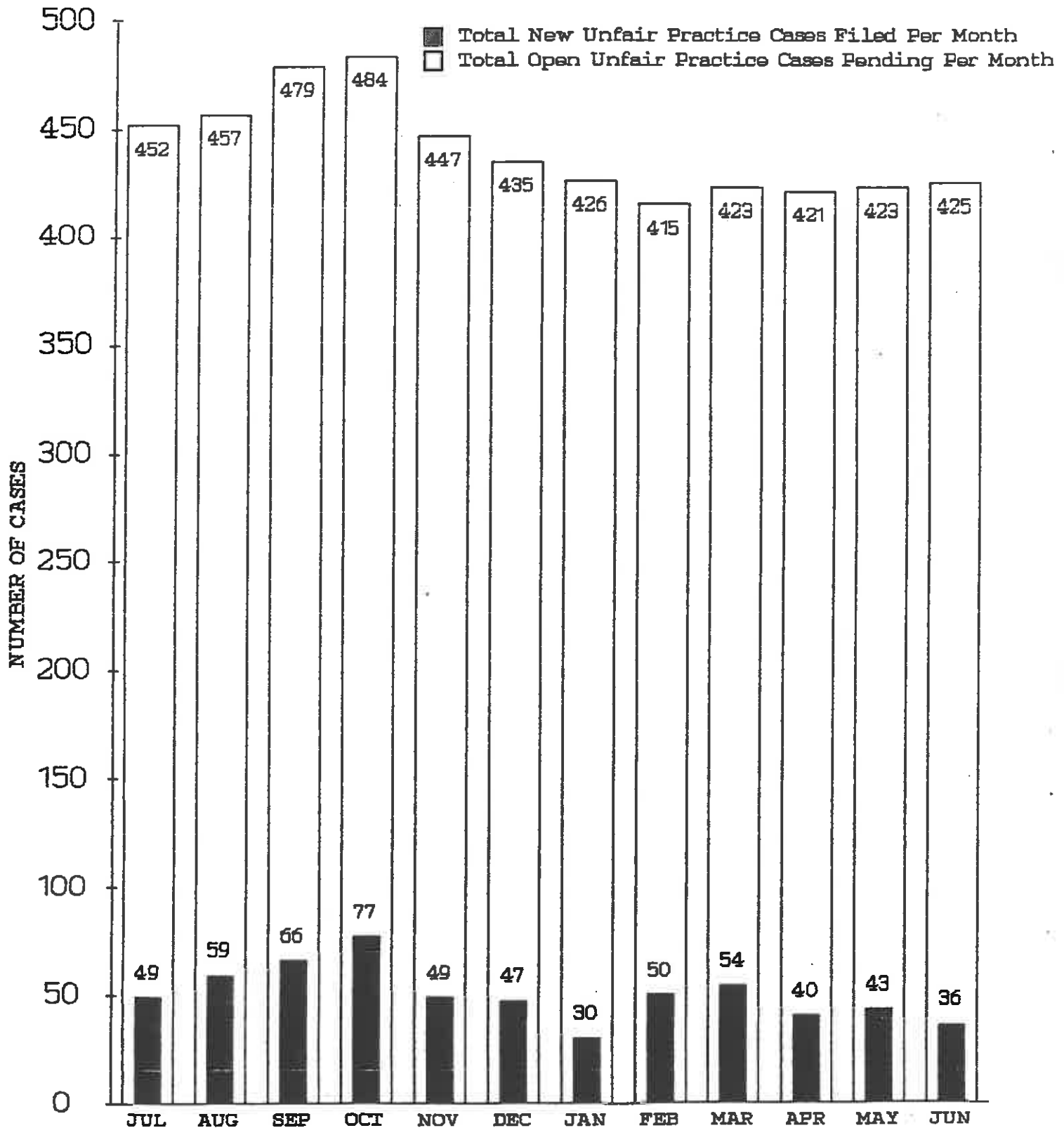
UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1987/88



TOTAL OF ALL ACTS

(EERA - HEERA - RALPH C. DILLS ACT)

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1987/88



ABBREVIATIONS TO ELECTIONS HELD

AFT	American Federation of Teachers
AOCT	Association of Chaffey Teachers
ATAM	Alliance of Trades and Maintenance
BCEA	Butte Classified Employees Association
BHEA	Beverly Hills Education Association
BSA	Baldy Staff Association
CAUSE	Carlsbad Association of Unified School Employees
CFT	California Federation of Teachers
CIT	Chaffey Independent Teachers
CODFA	College of the Desert Faculty Association
CSEA	California School Employees Association
CVFSE	Coachella Valley Federation of School Employees
FCEA	Fontana Classified Employees Association
FUSE	Federation of United School Employees
KCEG	Konocti Classified Employees Group
MCEA	Modesto Classified Employees Association
NEA	National Education Association
SEIU	Service Employees International Union
UAOS	United Administrators of Oakland Schools
VCFE	Ventura County Federation of Employees

EERA ELECTIONS HELD - FISCAL YEAR 1987/88

1987/88 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 BALLOT	VOID BALLOT	TYPE OF ELECT
10/22/87	LA-R -927E	POWAY USD	CLS	162	137	CSEA-95						
11/02/87	LA-R -926E	SAN DIEGUITO UnHSD	CLS	66	47	CSEA-42			42	0	0	C/REP
11/10/87	LA-R -932E	VENTURA COE	CERT	111	98	SEE NO REP	VCFE-34		5	0	0	C/REP
12/03/87	LA-R -934E	POWAY USD	CLS	325	162	CSEA-134			64	0	0	C/REP
12/11/87	LA-R -935E	ORANGE USD	CLS	20	19	CSEA-19			24	4	0	C/REP
12/17/87	SF-R -689E	UPPER LAKE UnESD	CLS	37	33	CSEA-25			0	0	0	C/REP
02/11/88	SF-R -690E	KELSEYVILLE USD	CLS	84	66	CSEA-41				5	3	C/REP
03/10/88	SF-R -683AE	OAKLAND USD	CLS	61	47	UAOS-28			20	5	0	C/REP
03/10/88	SF-R -683BE	OAKLAND USD	CERT	197	131	UAOS-104			19	0	0	C/REP
03/11/88	LA-R -940E	MOUNT BALDY JtESD	CERT	6	6	BSA-3			24	3	0	C/REP
04/05/88	LA-R -929E	COACHELLA VALLEY JtCCD	CERT	110	97	CODFA-51			3	0	0	C/REP
04/14/88	LA-R -938E	ORANGE USD	CLS	41	17	CSEA-16			37	9	2	C/REP
05/24/88	S -R -837E	PIERCE JtUSD	CERT	47	38	CTA-27			1	0	0	C/REP
05/24/88	S -R -835E	SHASTA-TRINITY ROP	CLS	27	22	CSEA-18			11	0	0	C/REP
									3	1	0	C/REP
10/19/87	SF-D -162E	LAKE COE	CERT	2	2	SEE NO REP	CTA-0					
10/20/87	LA-D -215E	GARDEN GROVE USD	CLS	436	369	CSEA-121	SEIU-171		2	0	0	C/REP
02/24/88	SF-D -163E	KONOCTI USD	CLS	66	61	CSEA-41	KCEG-20		3	8	1	D/REP
05/11/88	LA-D -218E	SANTA ANA USD	CLS	1360	947	CSEA-553	SEIU-354		0	0	0	C/REP
05/17/88	SF-D -166E								29	11	8	D/REP
	SF-D -167E	ACALANES UnHSD	CLS	93	86	SEIU-60	CSEA-21					
05/20/88	LA-D -221E	BEVERLY HILLS USD	CLS	53	42	BHEA/NEA-29	CSEA-12		3	2	1	C/REP
05/23/88	LA-D -230E	CULVER CITY USD	CERT	287	256	CTA/NEA-135	CFT/AFT-117		1	0	0	D/REP
05/24/88	LA-D -228E	SAN LUIS OBISPO COUNTY CCD	CLS	116	88	CCE/AFT-51	CSEA-21		3	1	0	D/REP
05/25/88	LA-D -227E	COACHELLA VALLEY USD	CLS	356	280	CSEA-201	CVFSE/AFT-73		16	0	0	D/REP
05/25/88	SF-D -168E	GILROY USD	CERT	447	400	GTA-199	GFT-199		1	5	0	D/REP
05/26/88	LA-D -224E	ONTARIO-MONTCLAIR ESD	CLS	710	462	CSEA-312	CTA-142		2	0	3	D/REP
05/27/88	LA-D -223E	CHAFFEY UnHSD	CERT	647	506	AOCT-264	CIT-239		8	0	2	C/REP
06/02/88	LA-D -217E	FONTANA USD	CLS	805	578	US-371	FCEA-204		3	0	0	C/REP
06/02/88	LA-D -222E	CULVER CITY USD	CLS	283	185	AFT-72	CSEA-56	NEA-52	3	0	1	C/REP
06/02/88	LA-D -225E	CULVER CITY USD	CLS	283	175	AFT-72	NEA-52	CSEA-46	5	0	4	D/REP
06/06/88	LA-D -226E								5	0	4	D/REP
	LA-D -229E	CARLSBAD USD	CLS	220	180	FUSE-86	CAUSE-59	CSEA-34				
06/08/88	S -D -112E	WASHINGTON UnHSD	CLS	46	40	SEE NO REP	CSEA-16		1	0	0	C/REP
06/08/88	SF-D -165E	MENDOCINO-LAKE CCD	CERT	38	34	SEE NO REP	CTA-9		24	0	0	C/REP
06/09/88	SF-D -168E	GILROY USD	CERT	447	421	GTA-217	GFT-204		24	1	0	C/REP
06/14/88	S -D -114E	MODESTO CITY SCHOOLS	CLS	934	737	CSEA-414	MCEA-311		0	0	4	D/REP
06/15/88	S -D -111E	CANTUA ESD	CLS	9	9	CFT-5			11	1	22	C/REP
06/20/88	S -D -113E	BUTTE COE	CLS	275	180	CSEA-98	BUTTE CEA-80		3	1	3	D/REP
06/28/88	LA-D -226E	CARLSBAD USD	CLS	220	182	FUSE-95	CAUSE-87		2	0	0	C/REP
									0	0	0	D/REP

EERA ELECTIONS HELD - FISCAL YEAR 1987/88

1987/88 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
10/01/87	LA-OS-099E	SADDLEBACK CCD	CLS	322	165		OS/YES-89	OS/NO-76	0	0	0	C/REP
10/15/87	S -OS-067E	SACRAMENTO CITY USD	CERT	2424	1765		OS/YES-1152	OS/NO-613	0	0	37	C/REP
12/17/87	S -OS-068E											
	S -OS-069E	DINUBA ESD	CERT	163	129		OS/YES-106	OS/NO-23	0	0	0	C/REP
01/25/88	SF-OS-131E	ALAMEDA CITY USD	CLS	90	53		OS/YES-36	OS/NO-17	0	0	0	C/REP
02/10/88	S -OS-070E	SAN JUAN USD	CERT	2641	1748		OS/YES-1249	OS/NO-494	0	5	14	C/REP
02/10/88	SF-OS-130E	JOHN SWETT USD	CLS	68	50		OS/YES-42	OS/NO-8	0	0	0	C/REP
02/25/88	S -OS-071E	DINUBA ESD/JtUnHSD	CLS	198	112		OS/YES-58	OS/NO-54	0	0	5	C/REP
03/16/88	LA-OS-100E	EL MONTE ESD	CLS	467	187		OS/YES-132	OS/NO-55	0	0	0	C/REP
03/22/88	LA-OS-103E	BELLFLOWER USD	CERT	463	272		OS/YES-224	OS/NO-48	0	0	1	C/REP
03/23/88	LA-OS-101E	PASADENA USD	CLS	343	166		OS/YES-101	OS/NO-65	0	0	0	C/REP
04/07/88	LA-OS-102E	PASADENA USD	CLS	744	378		OS/YES-126	OS/NO-252	0	0	1	C/REP
04/20/88	S -OS-074E	LINDSAY USD	CERT	125	82		OS/YES-66	OS/NO-16	0	0	0	C/REP
04/26/88	LA-OS-107E	BRAWLEY UnHSD	CERT	70	56		OS/YES-38	OS/NO-18	0	0	0	C/REP
05/03/88	SF-OS-132E	PACIFIC GROVE USD	CLS	139	87		OS/YES-63	OS/NO-24	0	0	1	C/REP
05/17/88	LA-OS-109E	ROSEMEAD ESD	CERT	125	89		OS/YES-77	OS/NO-12	0	0	0	C/REP
06/20/88	LA-OS-110E	GROSSMONT UnHSD	CERT	927	686		OS/YES-408	OS/NO-278	0	0	1	C/REP
06/21/88	LA-OS-111E	NORWALK-LA MIRADA USD	CLS	963	387		OS/YES-271	OS/NO-116	0	0	0	C/REP
11/05/87	S -UM-390E	FALL RIVER JtUSD	CLS	14	13	CSEA-11			2	0	0	C/REP
03/24/88	LA-UM-439E	NATIONAL ESD	CLS	9	8	CSEA-7			1	0	0	C/REP
06/28/88	SF-UM-416E	SAN FRANCISCO USD	CLS	16	15		UM/YES-13	UM/NO-2	0	0	0	C/REP

RALPH C. DILLS ACT ELECTIONS HELD - FISCAL YEAR 1987/88

1987/88 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	OS/NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
07/16/87	S -D -107S	STATE OF CALIFORNIA		9665	6201	ATAM-3666	CSEA-2349		132	54	34	C/REP
03/31/88	S -OS-072S	STATE OF CALIFORNIA		7625	2980		OS/YES-1017	OS/NO-1960		3	75	C/REP
04-01-88	S -OS-073S	STATE OF CALIFORNIA		9956	4217		OS/YES-3032	OS/NO-1184	0	1	88	C/REP

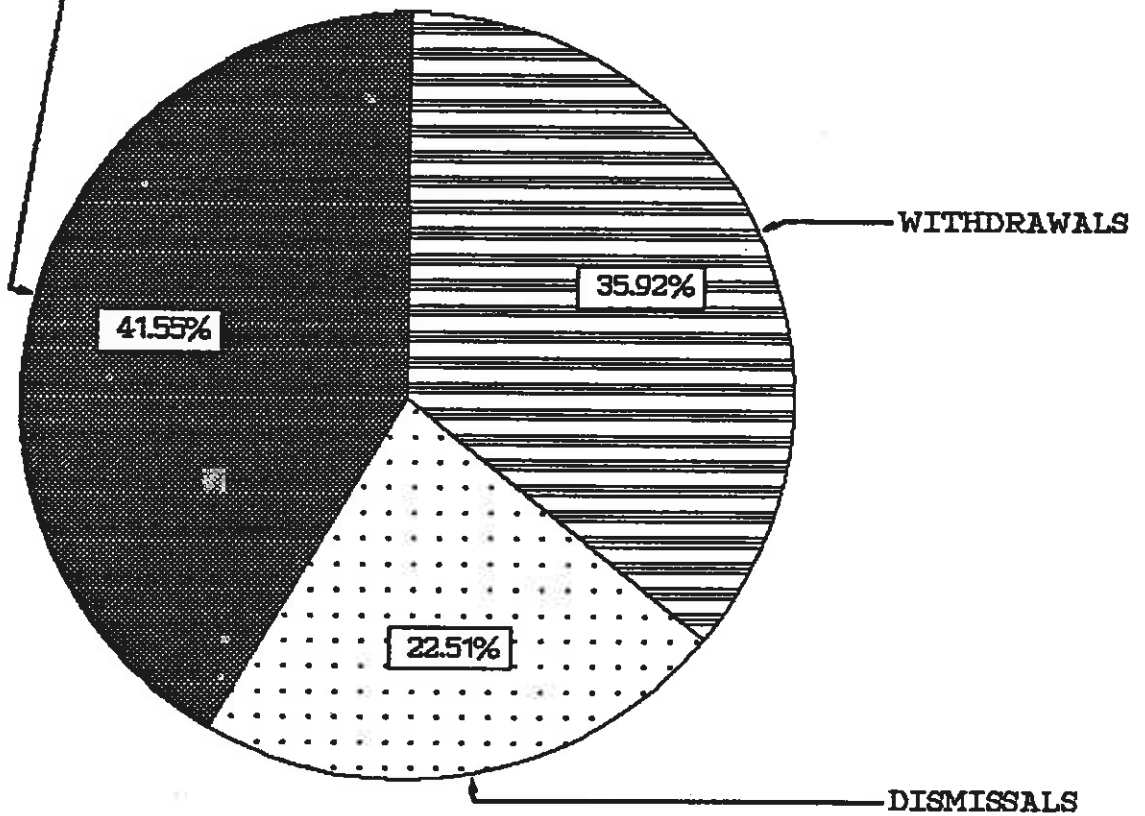
HEERA ELECTIONS HELD - FISCAL YEAR 1987/88

None

REGIONAL ATTORNEY STAFF ACTIVITY
Fiscal Year 1987/88

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
COMPLAINTS ISSUED	196	36	19	251
DISMISSALS	89	21	26	136
WITHDRAWALS	168	9	40	217

COMPLAINTS ISSUED.



ADMINISTRATIVE LAW JUDGE STAFF ACTIVITY
Fiscal Year 1987/88

PROPOSED DECISIONS ISSUED - 54

WITHDRAWALS - 215

DISMISSALS - 8

