

PUBLIC MEETING MINUTES

October 12, 2023

10:00 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office

425 W. Broadway

Glendale, California

Members Present

ERIC R. BANKS, Chair

ARTHUR A. KRANTZ, Member

LOU PAULSON, Member

ADRIN NAZARIAN, Member

Quorum Present? Yes

Executive Staff Present

JOSHUA GOLKA, Executive Director

SUSAN DAVEY, Deputy Executive Director

FELIX DE LA TORRE, General Counsel

SHAWN CLOUGHESY, Chief Administrative Law Judge

GERALD FECHER, Director, SMCS

Proceedings:

Meeting called to order at 10 a.m. by Chair Banks.

Since June 8th, 2023, the Board has been in continuous closed session to deliberate on cases pending on the Board's docket. A list of those Board decisions, determinations, and resolutions can be viewed on PERB's website.

Motion: Motion by Member Paulson and seconded by Member Nazarian to close the June 8th, 2023 Public Meeting.

Ayes: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of October 12th, 2023. Chair Banks further stated that the Board intends to hold a Board meeting in the Los Angeles Regional Office once a year for a Southern California presence.

Chair Banks thanked Rachel Morgan, Jay Hernandez, Josh Golka, Eric Cu, Joe Seisa, and Cheryl Shelly for resolving audio technical issues prior to the Board's public meeting.

Adoption of Minutes:

Chair Banks asked the Board Members if they had any questions, comments, or corrections to the minutes of June 8th, 2023 or move to approve it.

Motion: Motion by Member Krantz and seconded by Member Nazarian to approve the minutes of the June 8th, 2023 Public Meeting.

Ayes: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Public Comment

No public participants requested to comment on issues outside of the agenda.

Chair Banks officially welcomed Mollie Simmons to his Board office.

Member Nazarian thanked and recognized Seth Williams as his new Board Advisor.

Chair Banks stated that the new format for division reports is intended to streamline the reports and make them more uniform. Time to comment and suggest edits to the forms would be afforded after the Board heard from each Division Manager.

Executive Staff Reports:

Joshua Golka, Executive Director, announced the staff celebrating their five year anniversaries with PERB; Administrative Law Judge Erik Cuadros, Board Advisors Margot Rosenberg and Seth Williams, and from Human Resources, Geycel Colcol.

In legislative matters, Mr. Golka reported that the Governor signed Assembly Bill 1, the Legislative Employer-Employees Relations Act, which will become operative on July 1, 2026; Assembly Bill 96, which addresses local transit agencies regarding autonomous transit vehicles; Assembly Bill 1484, which amends the MMBA regarding temporary employees; Senate Bill 544, which modifies the authorization State agencies have to hold meetings by teleconference and requiring a roll call vote on motions put forth.

Mr. Golka further reported that the Governor vetoed Assembly Bill 504, which would have established a public employee's right to demonstrate solidarity with striking or picketing public employees.

Regarding rulemaking, Mr. Golka stated that the regulations related to the Judicial Council Employer-Employee Relations Act took effect July 1st, 2023.

The Expedited Case Processing Regulations went into effect on August 8th, 2023. There are also still rulemaking packages in process, including the

Special Remedies under the Public Employee Communications Chapter (PECC) and the prohibition on Public Employers Deterring or Discouraging union membership (PEDD) package.

The Transit package of Regulations, is in its final stages, and the Request for Accommodation Regulations package will be coming back to the Board with the subcommittee's recommended changes.

The Office of Administrative Law has approved the first round of gender-neutral language and non-substantive grammatical changes to be used throughout PERB's Regulations.

Lastly, Mr. Golka gave recognition to the Disability Advisory Committee (DAC) for arranging guest speakers for the staff's Lunch and Learn for National Disability Employment Awareness Month.

Chair Banks updated everyone on the subcommittee for Accommodations Regulations, stating that, because Member Shiners is no longer with PERB, the subcommittee now consists of Members Krantz and Member Paulson.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 72 filled positions and five vacancies.

Ms. Davey welcomed Sukhvir Singh, who replaced Chouang Chang. Ms. Davey congratulated and welcomed Jayson Hernandez, who promoted within the Division of Administration. Mr. Hernandez is now the new Information Technology Associate.

Ms. Davey also welcomed Victoria Chernioglo and Karen Chang, student interns. Ms. Chernioglo transitioned into Fiscal Services and Ms. Chang into Business Services. Ms. Davey also welcomed Michael Bonilla and Herman Melnyk as IT interns.

For Fiscal Services, Ms. Davey forecasts having 123 thousand dollars leftover.

Regarding Information Technology, Ms. Davey stated that they have completed the camera and key fob systems for Headquarters.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, stated that Wendi Ross will be retiring at the end of the year, but he welcomed and congratulated the new Assistant Chief Counsel, Mary Weiss, who was promoted at the start of October.

Mr. De La Torre also welcomed Andrew Gordon, a new Regional Attorney for the San Francisco Regional Office, and congratulated Maryna Maltseva on her promotion to the staff services analyst position in the Sacramento Office.

Mr. De La Torre reported that the Office of the General Counsel had received 96 unfair practice charges in August-September, this compares to 111 charges received in February-March.

In August-September, The General Counsel's Office completed 101 case investigations compared to 116 case investigations completed in February-March.

In August-September, the General Counsel's Office issued 59 complaints and dismissed 24 charges compared to 69 complaints issued and 29 dismissed in February-March.

The average time from the initial filing of a charge to when a complaint is either issued or dismissed was 172 days in August-September compared to 164 days in February-March.

For the past two months, the current active caseload has been 227, compared to 262 active cases in February-March.

Regarding factfinding requests, the General Counsel's Office received six in August-September compared to three received in February-March.

In August-September, there were 15 representation petitions filed, compared to 25 filed in March-April.

Mr. De La Torre reported on six requests for injunctive relief, eight new litigation matters, and five final determinations. He provided the details and status of each case.

Report - Division of Administrative Law

Shawn Cloughesy, Chief Administrative Law Judge, announced the promotion of Administrative Law Judge Cu from Senior ALJ to Deputy Chief ALJ.

Judge Cloughesy also reported that ALJ Valerie Pike Racho has returned to PERB.

Judge Cloughesy stated that cases continue to be set three to four months out -- mostly three -- from the informal. He further reported a reduction in hearing days.

The quarterly average number of days for issuing decisions is down to 101 compared to 150 days in the last fiscal year.

Lastly, Judge Cloughesy reported an exceptions ratio of 29 percent.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, SMCS Director, congratulated Jessica Chernioglo on her promotion to associate governmental programs analyst on July 5th, 2023.

At the end of September, SMCS had 122 active cases. This compares to 123 cases in June-July, and 109 for April-May.

SMCS opened 94 cases in August-September, 43 cases in June-July, and 86 cases in April-May.

SMCS closed 101 cases in August-September, 58 cases in June-July, and 86 cases in April-May.

In the prior period, SMCS had a total of 10 representation and elections.

For Program Administration, Mr. Fecher reported that, in August-September, SMCS received a total of \$7,125 for chargeable services; \$4,925 resulting from the Arbitration Panel Program and \$2,250 from elections.

In June-July, SMCS received a total of \$14,051; 13,706 resulting from the Arbitration Panel Program and \$345 from Conflict Resolution in the Workplace. In April-May, SMCS received a total of \$3,560; \$2,525 resulting from the Arbitration Panel Program and \$1,035 from Conflict Resolution in the Workplace.

Mr. Fecher reported that outreach efforts continue, most recently with the National Academy of Arbitrators, *Meet The Arbitrator Conference* on September 29th, which many constituents attended.

Lastly, Mr. Fecher stated that requests for training in interest-based bargaining, both for labor and management, continues to grow.

Motion: Motion by Member Nazarian and seconded by Member Paulson to accept the reports of the Executive Director, Division of Administration, Office of the General Counsel, Division of Administrative Law, and State Mediation and Conciliation Services.

Ayes: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Member Krantz, Chair Banks, and Mr. De La Torre discussed ways to improve the new format of the Board reports.

New Business

Chair Banks stated that the Board will consider whether to authorize the preparation of a rulemaking package to add new PERB Regulations governing the recording of PERB proceedings and to further use as our authority to appoint a subcommittee of two Board Members to draft and review proposed regulations.

Mr. Golka stated that, because of the increased use of virtual meeting technology across PERB's Divisions, it has become apparent that PERB would benefit from Regulations regarding the appropriate recording and subsequent use of such recordings as part of PERB's proceedings.

No public participants requested to comment on this issue.

Motion: Motion by Member Krantz and seconded by Member Paulson to authorize the preparation of a rulemaking package to add new PERB Regulations governing the recording of PERB proceedings and to further use its authority to appoint a subcommittee of two Board Members to draft and review the proposed regulations.

Ayes: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Chair Banks assigned Member Krantz and Member Paulson to work with staff on preparing a draft of the proposed regulations that would govern the recording of PERB proceedings.

Chair Banks stated that the Board will consider whether to authorize the preparation of a rulemaking package to add new PERB Regulations implementing a word limit for appeals of dismissals and to further use its authority to appoint a subcommittee of two Board Members to draft and review the proposed regulation.

Mr. De La Torre asked the Board to assign a committee to draft regulations that would place word limits on the dismissal of appeals. He stated that doing so would make it consistent with other types of PERB filings that have word limits.

No public participants requested to comment on this issue.

Motion: Motion by Chair Banks and seconded by Member Krantz to authorize the preparation of a rulemaking package to add new PERB Regulations implementing a word limit for appeals of dismissals and to further use its authority to appoint a subcommittee of two Board Members to draft and review the proposed regulations.

Ayes: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Chair Banks assigned himself and Member Nazarian to work with staff on preparing a draft of the proposed regulations to implement word limits on the dismissal of appeals.

Meeting Adjourned

Chair Banks stated that, immediately upon recess, the Board will meet in continuous closed session until the next regularly scheduled public meeting on December 14th, 2023, at Sacramento Headquarters.

During closed session, the Board will deliberate on cases listed on the Board's docket, personnel matters, pending litigation, and any pending requests for injunctive relief.

Motion: Motion by Member Nazarian and seconded by Member Krantz to recess the meeting to continuous closed session.

Ayes: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

APPROVED AT THE PUBLIC MEETING OF:

December 14, 2023 _____