PUBLIC EMPLOYMENT RELATIONS BOARD

2004-2005 ANNUAL REPORT

October 15, 2005

ARNOLD SCHWARZENEGGER, GOVERNOR

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

2004-2005 ANNUAL REPORT

October 15, 2005

Board Members

JOHN C. DUNCAN
ALFRED K. WHITEHEAD
THEODORE G. NEIMA
LILIAN S. SHEK
SALLY M. MCKEAG

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PUBLIC EMPLOYMENT RELATIONS BOARD

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October 15, 2005

Dear Members of the Legislature and fellow Californians:

The Public Employment Relations Board is a quasi-judicial administrative Board that oversees collective bargaining statutes encompassing 7,000 public employers and over 2 million employees. Last year, PERB's jurisdiction was expanded further to include the trial courts and trial court employees with Governor Schwarzenegger's signature on Senate Bill 1102. I believe this is a reaffirmation of what our long-time constituents already know, this Board effectively provides employers, unions and employees a neutral forum in which to resolve disputes.

These are busy times at PERB. The number of cases reviewed each year by the Board has significantly increased since the Meyers-Milias-Brown Act was added to PERB's jurisdiction through legislation passed in 2000. The number of unfair labor practice charges has climbed dramatically from 461 in fiscal year 2000-2001 to 1,126 in fiscal year 2004-2005. Additional funding resources were acquired last year that allowed us to add staff. This helped meet the growing need for our services. As a small agency with a large mission, securing budget stability after many years of turbulence and uncertainty is vital to achieving our overall mission.

The Board emphasizes mediation and conciliation as a first step to resolution with a focus on quick resolution. Approximately seventy-five percent of the Board's complaints are resolved through voluntary settlement agreements. In cases where mediation is not successful, the parties are provided the opportunity to litigate their disputes quickly and efficiently. One of the Board's most important jobs is to provide guidance to the parties through clear and concise decisions. The Board itself issued a record 142 decisions in fiscal year 2004-2005.

PERB is dedicated to reaching out to its constituents in multiple ways. Over the last year, there were significant improvements made to our website allowing Board decisions to be accessed and reviewed on-line, as well as instituting a feature for parties to sign-up for e-mail notification when new decisions are issued. We have created an Advisory Committee composed of key members of the public sector labor and management communities to assist in developing further recommendations on how PERB can improve.

Each Board Member and the entire staff of PERB is committed to improving even further the swift resolution of disputes at all levels. The public employees, unions and employers of this state deserve timely review of their disputes.

All of us at PERB hope that you find this report informative and helpful. We look forward to the next year of our service to the people of California.

Respectfully submitted,

John C. Duncan
Chairman

Introduction of Board Members and Administrators

Board Members

John Duncan was appointed to the Board and designated Chairman by Governor Arnold Schwarzenegger February 2004. Prior to his appointment, he was president of Duncan Consulting, Inc. and served as a member of the Governor-Elect's Transition Team staff. Mr. Duncan previously served in the cabinet of Governor Pete Wilson. He was the Director of the Department of Industrial Relations and principal advisor to Governor Wilson on labor and employment issues. Following that service he was chairman of the California Employment Training Panel. Before his state service, Mr. Duncan was special assistant to then Secretary of Defense, Caspar Weinberger. He was assistant to the secretary at the Department of Defense from 1985 to 1987, and special assistant to the deputy assistant secretary of defense for International Security Affairs, East Asia and Pacific Affairs from 1983 to 1984. Mr. Duncan is a graduate of the University of California, Berkeley with a bachelor's degree in history and holds a masters degree in public administration from Harvard University's John F. Kennedy School of Government. His term expires on December 31, 2008.

Alfred K. Whitehead, appointed to the Board January 2001, is General President Emeritus for the International Association of Fire Fighters (IAFF), where he served from 1988 to August 2000. In 1982, he was elected General Secretary/Treasurer of the IAFF and was re-elected through 1988. Mr. Whitehead served as a fire captain for the Los Angeles County Fire Department from 1954 to 1982. He was a member of the Los Angeles County Fire Fighters Local 1014 for more than 20 years and was President for 12 years. Mr. Whitehead is a former member of the Los Angeles County Board of Retirement and served as an elected official to the National Conference on Public Employee Retirement Systems for more than 17 years. He attended East Los Angeles College, is a veteran of the United States Army, and also served as a United States Merchant Marine. His current term expires on December 31, 2005.

Lilian S. Shek was appointed to the Board by Governor Arnold Schwarzenegger November 2004. Prior to her appointment, she was an Administrative Law Judge II for the Unemployment Insurance Appeals Board, where she served from April, 1992 to November, 2004. In 1994, Governor Pete Wilson appointed her to the Governor's Advisory Selection Committee, the Regents of the University of California. Before April, 1992, she was an attorney in private practice, an assistant professor and lecturer in business law at California State University, Sacramento; a hearing officer for the Sacramento County Civil Service Commission; and a judge pro tem for the Small Claims Department of Sacramento County Superior and Municipal Courts. She was an assistant counsel for the California Farm Bureau Federation; and received a Reginald Heber Smith Community Lawyer Fellowship to serve as a staff attorney for the San Francisco Neighborhood Legal Assistance Foundation and Legal Services of Northern California. She was actively involved in several professional organizations. She was a Barrister of the Anthony M. Kennedy American Inns of Court; Chair of the California State Bar Committee on Women in the Law; President of Women Lawyers of Sacramento; and a member of the American Women Judges Delegation to the People's Republic of China. She earned her Bachelor of Arts degree in sociology from the University of California, Berkeley; her Doctor of Jurisprudence degree from Hastings College of the Law,

University of California; and her Masters of Business Administration degree from California State University, Sacramento. Her term expires on December 31, 2007.

Sally M. McKeag was appointed to the Board by Governor Arnold Schwarzenegger in March 2005. Prior to her appointment, she served as Chief Deputy Director of the California Employment Development Department since January 2004. She also served as Deputy Staff Director of the Governor-Elect's Transition Team. Her term ends on December 31, 2006.

Ms. McKeag initially served as Chief of Staff to the Department of Labor's Employment and Training Administration Assistant Secretary, and then assisted in the creation of ETA' Business Relations Group (BRG). The BRG applies innovative approaches to help business and industry better access the services of the state and local workforce investment system and to ensure the workforce investment system understands the skills and training needs of the 21st Century workforce.

Ms. McKeag served in a variety of capacities for the California State Senate and the Wilson Administration. Specifically, she was Director of Public Affairs for the Senate Republican Caucus where she oversaw the development and implementation of strategies to support Senate members in representing their constituencies. Under Governor Pete Wilson, she served as Deputy Director of Operations for the Department of Consumer Affairs, Acting Deputy Director of the Department of Fish and Game, and Director of the Governor's Office of Constituent Affairs. Prior to the Wilson Administration, she served in the Reagan and Bush Administrations in Washington, D.C. She was the Director of the Executive Secretariat at the Environmental Protection Agency, overseeing the coordination of all correspondence and other official documents for the EPA Administrator. Ms. McKeag was also Special Assistant to the Secretary of the Interior, supervising all functions related to scheduling of the Secretary's participation in official and political events.

Theodore G. Neima, appointed to the Board August 2001, was formerly a Grand Lodge Representative for the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM), a position he held since 1979. In 1993, he assumed responsibility in the thirteen Western United States for coordination of IAM cases before employment relations agencies. This included the presentation of representational and unfair labor practice cases before the National Labor Relations Board, the Federal Labor Relations Authority and state employment relations boards, including PERB. In 1983 and 1984, he served as the Special Assistant to the California Labor Commissioner. His term expired on December 31, 2004.

Legal Advisers

Appointed by Governor Arnold Schwarzenegger as legal adviser to Chairman John C. Duncan, April 1, 2004**, Bilenda Harris-Ritter** is a graduate of the University of Southern California. She received a degree in Journalism and worked as a reporter, editor and in corporate communications. Prior to attending law school she was press deputy to a member of the California State Assembly. She also represented California Metalforming as a lobbyist and was a member of the Machine Guarding Advisory Board to OSHA from 1983-1986.

Ms. Harris-Ritter graduated from Southwestern University School of Law in Los Angeles. Prior to her appointment she was in private civil practice. She has been a certified specialist in workers compensation law for several years. She served as a workers compensation administrative law judge pro tempore at the Stockton Workers Compensation Appeals Board and served two terms as president of the workers' compensation section of the Sacramento County Bar Association. Ms. Harris-Ritter also served as president of the Valley Industrial Claims Association and three years on the Board of the Junior League of Sacramento. In 1997 she became an arbitrator for the National Association of Securities Dealers and served as Chair of the City of Folsom Redevelopment Advisory Committee . Ms. Harris-Ritter completed an intensive program in mediation training at Pepperdine University School of Law. A founding member of the Crime Victims Assistance Association of Arkansas, she has been instrumental in bringing changes to clemency-procedure laws in Arkansas. She is currently on the Board of Directors of the Labor and Employment Law Section, Sacramento County Bar Association and IRANC (Industrial Relations Association of Northern California).

Appointed as Legal Adviser to Member Alfred K. Whitehead in March 2002, **Laurie Epstein-Terris** earned her B.A. in Economics from the University of Colorado, Boulder, an M.S. in Industrial Relations from the University of Wisconsin, Madison, and her J.D. from the University of California, Davis School of Law. She has been a member of the State Bar since 1984. From 1988 to March 2002, she served as Senior Staff Counsel for the Department of Water Resources and part-time as a Hearing Officer over bid protests for the State Board of Control. In 1987 to mid 1988, she was employed as Staff Counsel with the Department of General Services. While a law student, Ms. Epstein-Terris served as a legal intern for Board Member John Jaeger and in 1986-1987, was employed as legal counsel in PERB's General Counsel's Office.

Appointed as Legal Adviser to Member Sally M. McKeag in June 2005, **Gregory T. Lyall** was previously a staff counsel at the California Department of Personnel Administration from 2001 to 2005. Before entering state service, Mr. Lyall was an associate attorney with the law firms of Kronick, Moscovitz, Tiedemann & Girard (1997-2000) and Pinnel & Kingsley (1994-1997). Mr. Lyall received his B.S. degree in Biology from the University of Southern California and his Juris Doctorate from the University of San Diego School of Law where he graduated with *cum laude* honors and served as a member of the San Diego Law Review.

Timothy G. Yeung was appointed as Legal Adviser to Member Richard T. Baker in February 2003. He served in that capacity until the end of 2003 when he became the Legal Adviser to Member Ted Neima. At the expiration of Member Neima's term he served as legal adviser to Member Lilian Shek before returning in March 2005 to the Department of Justice. Mr. Yeung is again a Deputy Attorney General and specializes in employment litigation. He previously served there from 1999 to 2003. From 1996 to 1999, he was a Labor Relations Counsel with the California Department of Personnel Administration. Mr. Yeung earned his B.S. in Business Administration from U.C. Berkeley and his J.D. from U.C. Davis where he served as Senior Research Editor for the U.C. Davis Law Review. Mr. Yeung also currently serves as a member of the City of Davis Personnel Board.

Administrators

Chief Administrative Law Judge **Fred D'Orazio** joined PERB as an administrative law judge in 1978. He was promoted to chief administrative law judge in 2003. He served for ten years as annual editor of California Public Sector Labor Relations, a treatise sponsored by the Employment and Labor Law Section of the State Bar of California and published by Matthew Bender. He authored a Pocket Guide to the Ralph C. Dills Act, published by the California Public Employee Relations, Institute of Industrial Relations, University of California, Berkeley. He has also taught public sector labor law at Golden Gate University School of Law and administrative law at University of San Francisco School of Law. He received his B.S. from George Washington University and his J.D. from American University, Washington College of Law. Prior to joining PERB, he was Assistant General Counsel for the National Treasury Employees Union.

PERB General Counsel **Robert Thompson** began working for PERB in 1980 as a Legal Adviser to then Chair Harry Gluck. He has also worked as a Regional Attorney and Deputy General Counsel. He received a Bachelor of Sciences degree in Chemical Engineering from Northwestern University and is an adviser to the Executive Committee of the Labor and Employment Law Section of the State Bar of California.

Eileen Potter began working for PERB in 1993 as the Administrative Officer. Her state service includes the Governor's Office of Planning and Research (OPR) from 1979 through 1990 culminating in her appointment as the Assistant Chief of Administration. After leaving OPR, Ms. Potter worked at the Office of Statewide Health Planning and Development and the Department of Health Services before coming to PERB as its Administrative Officer. She has a degree in Criminal Justice Administration with minors in Accounting and English from California State University, Sacramento.

Anita I. Martinez has been employed with PERB since 1976 and has served as San Francisco Regional Director since 1982. Her duties include supervision of the regional office, investigation of representation cases and unfair practice charges, and the conduct of settlement conferences, representation hearings, and elections. Before joining PERB, Ms. Martinez worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender

treatise, California Public Sector Labor Relations, she has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Ms. Martinez received her B.A. from the University of San Francisco.

Les Chisholm has served as Sacramento Regional Director for PERB since 1987. His duties include investigation of representation cases and unfair practice charges, and conduct of settlement conferences and representation hearings and elections. Mr. Chisholm also has responsibilities in the areas of legislation, rulemaking and computer projects for the Board. He received an M.A. in political science from the University of Iowa.

II. OVERVIEW

Statutory Authority and Jurisdiction

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board now administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB prior to July 1, 2001 were: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code sec. 3540 et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code sec. 3512 et seq.), establishing collective bargaining for State Government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code sec. 3560 et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968 (Gov. Code sec. 3500 et seq.), which established collective bargaining for California's municipal, county, and local special district employers and employees. This occurred as a result of Governor Gray Davis' signing of Senate Bill 739, authored by State Senator Hilda Solis (Statutes of 2000, Chapter 901). PERB's jurisdiction over the MMBA excludes peace officers, management employees and the City and County of Los Angeles.

On January 1, 2004, Assembly Bill 199, authored by Assembly Member Oropeza, took effect expanding PERB's jurisdiction to include the supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Chapter 833, Statutes of 2003). The Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) is codified at Public Utilities Code sec. 99560 et seq.

Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Employment Protection and Governance Act of 2000 (Gov. Code sec. 71600 et seq.) and the Trial Court Interpreter Employment and Labor Relations Act of 2002 (Gov. Code sec. 71800 et seq.). The expansion of PERB's jurisdiction to include the trial courts and trial court employees resulted from Governor Schwarzenegger's approval of Senate Bill 1102 (Chapter 227, Statutes of 2004).

With the passage of SB 739, AB 199 and SB 1102, approximately 2 million public sector employees and their employers are included within the jurisdiction of the seven Acts administered by PERB. Approximately 675,000 employees work for California's public education system from pre-kindergarten through and including the community college level. Approximately 125,000 employees work for the State of California. The University of California, California State University and the Hastings College of Law employ approximately 100,000. The remainder are employees of California's cities, counties, special districts, trial courts, and the Los Angeles County Metropolitan Transportation Authority.

PERB's Purpose and Duties

The Board

The Board itself is composed of five members appointed by the Governor and subject to confirmation by the State Senate. Board members are appointed to five-year terms, with the term of one member expiring at the end of each calendar year. In addition to the overall responsibility for administering the seven statutes, the Board acts as an appellate body to hear challenges to proposed decisions that are issued by the Board agents in the Office of the General Counsel. Decisions of the Board itself may be appealed under certain circumstances, and then only to the state appellate courts. The Board, through its actions and those of its agents, is empowered to:

- Conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- Prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- Deal with impasses that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- Ensure that the public receives accurate information and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- Interpret and protect the rights and responsibilities of employers, employees and employee organizations under the Acts;
- Bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- Conduct research and training programs related to public sector employer-employee relations;
- Take such other action as the Board deems necessary to effectuate the purposes of the Acts that it administers.

During fiscal year 2004-2005, the Board issued 142 decisions. In comparison, the Board issued 132 decisions the previous fiscal year. A summary of the Board's 2004-2005 decisions is included in the Appendices beginning at page 21.

Major PERB Functions

The major functions of PERB involve: (1) the administration of the statutory process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (2) the evaluation and adjudication of unfair practice charges; (3) the appellant filings to the Board itself; and (4) the legal functions performed by the Office of the General Counsel.

Representation: The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications which have an internal and occupational community of interest. In most situations, if only one employee organization petition is filed, with majority support, and the parties agree on the description of the bargaining unit, the employer must grant recognition. If more than one employee organization is competing for representational rights of the same bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent holds a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation and/or hearing and issues a written determination. That determination sets forth the appropriate bargaining unit, or modification of that unit, based upon statutory unit determination criteria and appropriate case law. Once an initial bargaining unit has been established, PERB conducts a representation election in cases where the employer has not granted recognition to an employee organization. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

Representation Section staff also assist parties in reaching negotiated agreements through the mediation process provided in EERA, HEERA, and the Dills Act, and through the fact-finding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations either party may declare an impasse. If that occurs, a Board agent contacts both parties to determine if they have reached a point in their negotiations that further meetings without the assistance of a mediator would be futile. Once PERB has determined an impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

If settlement is not reached during mediation, either party, under EERA and HEERA, may request the implementation of statutory fact-finding procedures. PERB provides lists of neutral factfinders who make findings of fact and advisory recommendations to the parties concerning terms of settlement.

A summary of PERB's representation activity is included at page 18.

Unfair Practice Charges: The evaluation and adjudication of unfair practice charges is another major function performed by PERB. Unfair practice charges may be filed with PERB by an employer, employee organization, or employee. These allege an employer or employee organization engaged in conduct that is unlawful under one of the Acts administered by PERB. Examples of unlawful employer conduct include refusing to negotiate in good faith with an employee organization; 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 failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is evaluated by Board agents to determine whether a prima facie violation of the statute 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, HEERA, MMBA, TEERA, Trial Court Act or Court Interpreter Act has occurred. If the charge fails to state a prima facie case, a Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is given time to either amend or withdraw its charge. If the charge is not amended or withdrawn, it is dismissed. The charging party then has the option of appealing the dismissal to the Board itself.

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

Once a complaint has been issued, an Administrative Law Judge (ALJ) or other PERB agent is assigned to the case and calls the parties together for an informal settlement conference. That usually is within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB ALJ is scheduled. That usually occurs within 90 days of the date of the informal conference. The 90-day wait for a formal hearing represents an increase of 30 days from prior fiscal years. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party to the case may then appeal the proposed decision to the Board itself. The Board itself may affirm, modify, reverse or remand the proposed decision.

Proposed decisions which are not appealed to the Board itself are binding upon the parties to the case but may not be cited as precedent in other cases before the Board.

Decisions of the Board itself are both binding on the parties to a particular case and precedential. Most PERB decisions are now available on our website: http://www.perb.ca.gov. Interested parties can also now sign-up for electronic notification of new Board decisions. Soon the text of all decisions will be available there.

Appeals Office: The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. It maintains case files, issues decisions rendered and prepares administrative records filed with California appellate courts. This office is the main contact with parties and their representatives while cases are pending before the Board itself.

Office of the General Counsel: The legal representation function of the Office of the General Counsel includes:

- Defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in state appellate courts;
- Seeking enforcement when a party refuses to comply with a final Board decision, order or ruling, or with a subpoena issued by PERB;
- Seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- Defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- 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.

A summary of litigation activity is included later in this report at page 73.

Other PERB Functions and Activities

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

Support Functions and Board Operations

The Administration Section provides support services to PERB, such as business services, personnel, accounting, information technology, mail and duplicating. This section also handles budget development and maintains liaison with the Department of Finance and other agencies within State Government.

PERB emphasizes automation as a means of increasing productivity, allowing it to handle increased workload with reduced staffing. PERB has also moved forward with the full development of its website, allowing those who do business with PERB the ability to access PERB Decisions, forms and the Board's regulations and statutes on-line.

III. LEGISLATION AND RULEMAKING

A. Legislation

The major legislative development of 2004 affecting PERB was the enactment of Senate Bill 1102 (Chapter 227, Statutes of 2004). SB 1102's provisions included amendments to the Trial Court Employment Protection and Governance Act (Government Code section 71600 et seq.) and the Trial Court Interpreter Employment and Labor Relations Act (Government Code section 71800 et seq.) bringing those Acts under PERB's authority and jurisdiction. PERB now has jurisdiction to enforce seven separate public sector collective bargaining statutes, compared to three statutes prior to July 1, 2001.

B. Rulemaking

Effective August 30, 2004, PERB adopted emergency rule changes necessary to implement the new authority and responsibility enacted by Senate Bill 1102. PERB subsequently submitted a rulemaking package to the Office of Administrative Law (OAL) for adoption of permanent rule changes, notified interested parties of the changes being considered, held a public hearing on the proposed changes on February 10, 2005, and adopted the proposed changes with modifications at public meetings held on February 10 and April 14, 2005. On April 26, 2005, PERB filed a Certificate of Compliance with the Office of Administrative Law along with the rulemaking file relating to the permanent adoption of changes, and the changes were effective as of May 31, 2005.

In addition, at public meetings held on May 11 and June 9, 2005, the Board considered and adopted revisions to the agency's conflict-of-interest code, codified at PERB Regulation 31100, pursuant to Government Code Section 87306 and Section 18750 of the Regulations of the Fair Political Practices Commission (FPPC). Final approval of the revised code by the FPPC is pending.

Following suggestions by interested parties that PERB's agency fee regulations be revised a workshop was held on March 3, 2005, to allow all interested parties an opportunity to discuss these issues with PERB staff and one another. The Board has not yet determined whether to initiate formal rulemaking in this area but has taken the matter under consideration.

IV. CASE DISPOSITIONS

Unfair Practice Charge Processing

The 1,126 unfair practice charges filed in fiscal year 2004-2005 represent a 35 percent increase over the previous fiscal year's filings of 835. This increase continued an overall increase in filings since July 2001. The average number of unfair practice charges filed during the ten years prior to July 1, 2001, was 551 per year. The average number of annual filings since July 1, 2001 is 925. While the MMBA, which came under the jurisdiction of PERB on July 1, 2001, is partially responsible for the increase, filings under HEERA in 2004-2005 increased nearly 400 percent over the prior year, mostly representing agency fee concerns (439 compared to 133). (See chart at page 20.)

General Counsel staff completed investigation of 1,109 unfair practice charges during the fiscal year, surpassing the prior year by 325. In addition, the average number of days to process a charge was 82, less than the average number of days (84) needed in the prior year and also less than required in fiscal years 1999-2000 and 2000-2001 (88). The 385 cases that resulted in a complaint comprised 35 percent of the total number of cases in which an initial review was completed. This is slightly below the percentage in the prior year (37 percent) and lower than the historical 40 percent rate of complaint issuance.

Dispute Resolutions and Settlements

PERB stresses the importance of voluntary dispute resolution. This emphasis begins with the first step of the unfair practice charge process, the investigation. During this step of the process, 304 cases were withdrawn, many through informal resolution by the parties. Staff from the General Counsel's office and the Division of Administrative Law conducted 323 days of settlement conferences. These efforts resulted in voluntary settlements in 169 cases, or 60 percent of those cases in which settlement efforts concluded, compared to only 111 cases set for hearing subsequently.

PERB's high success rate in mediating voluntary settlements is due to the tremendous skill and efforts of its staff. As the efforts of PERB's staff demonstrate, voluntary settlements are the most efficient way of resolving disputes as well as providing an opportunity for the parties to improve their relationship. PERB looks forward to continuing this commitment to voluntary dispute resolution and extending this commitment to the trial court parties recently added to its jurisdiction.

Administrative Adjudication

Complaints that are not resolved through voluntary mediation are sent to the Division of Administrative Law for an evidentiary hearing before an administrative law judge. During this fiscal year, the workload of the Division remained relatively consistent with the workload and productivity since the effective date of PERB jurisdiction over the MMBA in July 2001. In 2004-2005 ALJs issued 49 proposed decisions with average time of decision issuance 63 days.

In 2003-2004, ALJs issued 47 proposed decisions with average time for issuance 53 days. In 2002-2003, ALJs issued 52 proposed decisions with average time for issuance 53 days. In addition, of the 49 proposed decisions issued this fiscal year, 22 have been appealed to the Board, 24 have become final and exceptions are pending in 3 cases. It should be noted that prior to fiscal year 2003-2004, there were six ALJs. In fiscal years 2003-2004 and 2004-2005 there were the equivalent of five ALJs.

Board Decisions

Proposed decisions issued by the Division of Administrative Law are subject to review by the Board itself. During the fiscal year, the Board issued 142 decisions and took under consideration 14 requests for injunctive relief.

Litigation

There were a total of 23 litigation cases which were handled during fiscal year 2004-2005 (summarized in the Appendices, pages 73-76). These litigation cases required the filing of over 47 briefs, motions, and pleadings. This compares with 20 litigation cases during the 2003-2004 fiscal year.

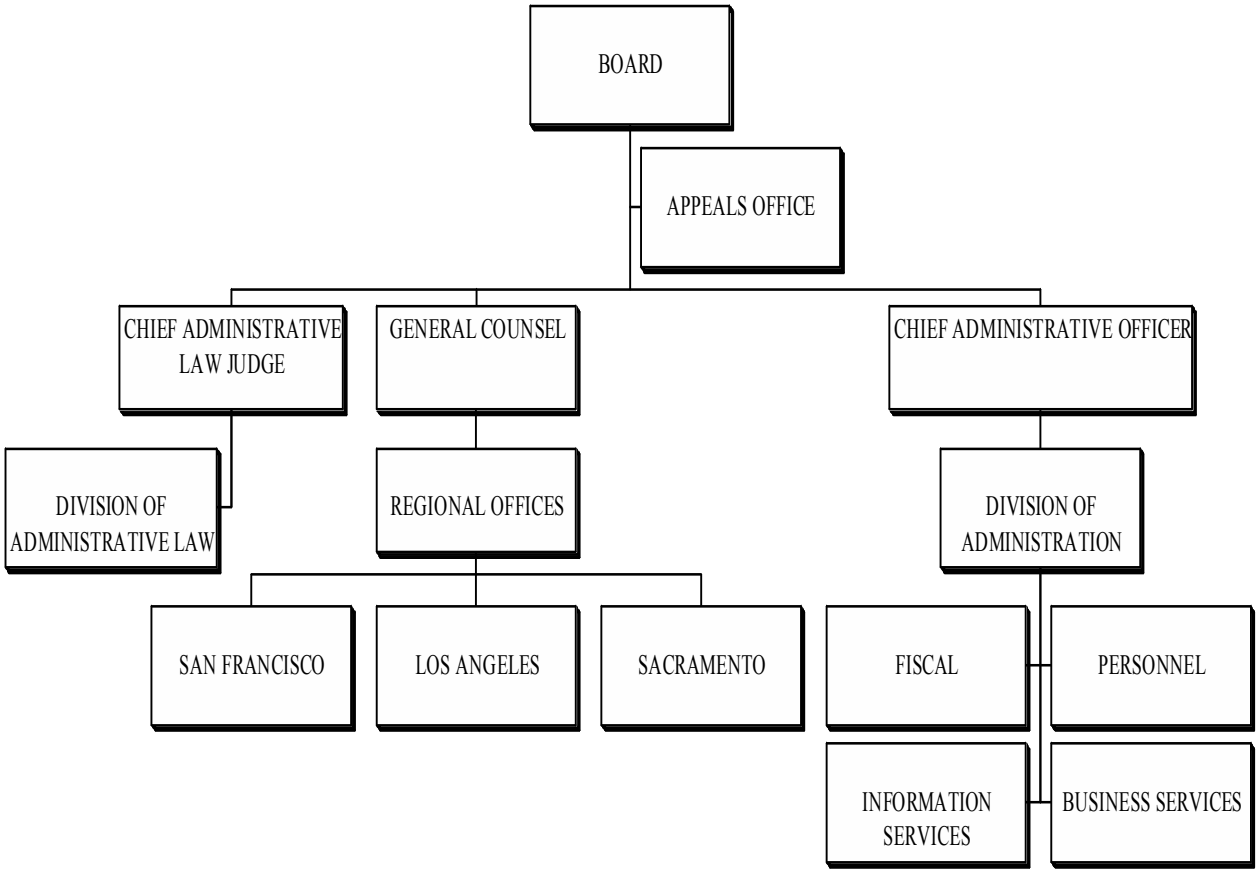
Representation Activity

For the fiscal year, 361 new cases were filed; an increase of 23 over the prior year, and 17 more than the 4-year average. The fiscal year total includes 191 mediation and 25 factfinding requests, compliance concerning 33 cases, 103 representation petitions (recognition, severance, certification, decertification, amendment of certification, unit modification, and board review), and 9 other cases (organizational security rescission, arbitration, financial statement complaints and public notice complaints).

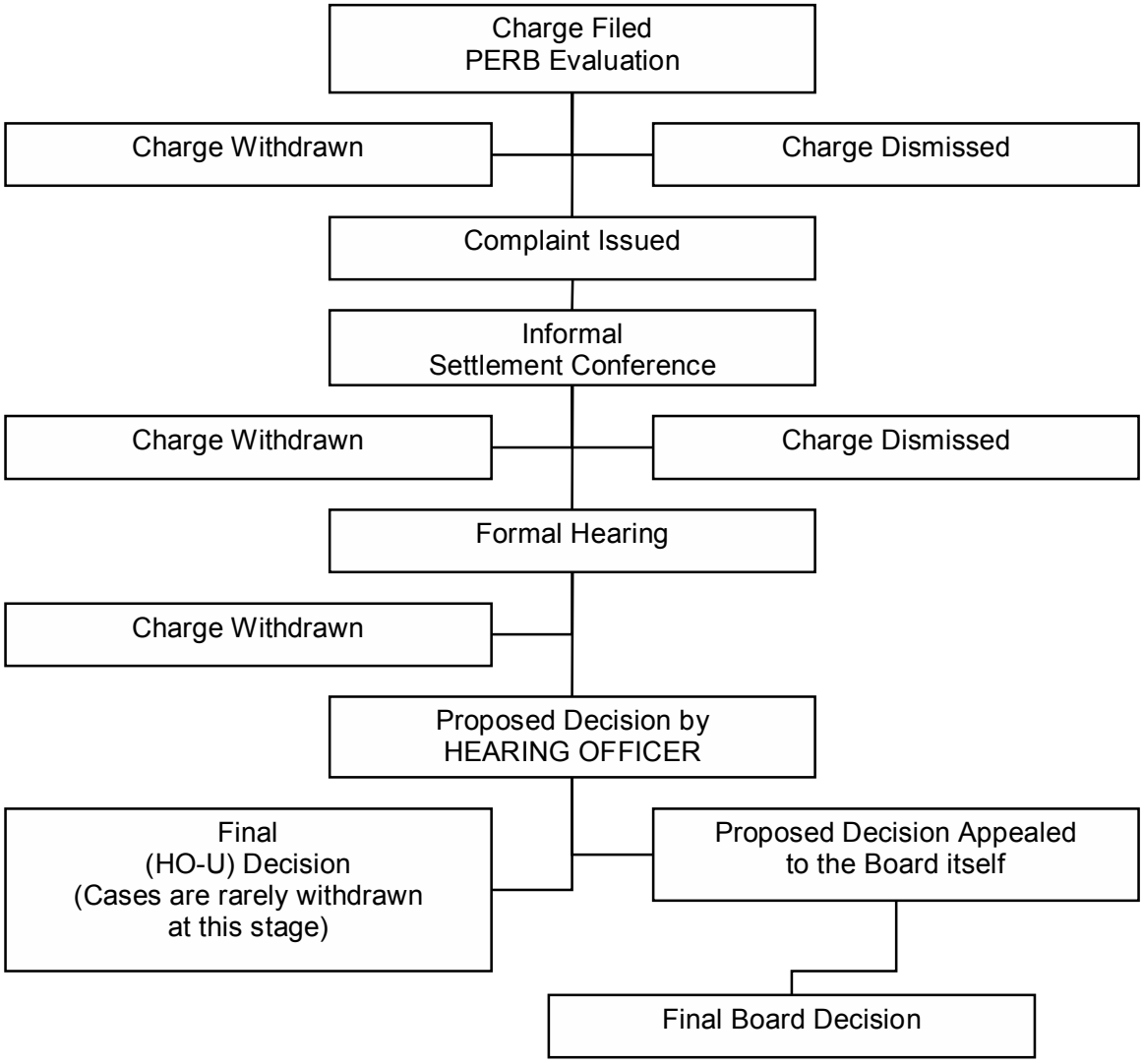
Election activity increased slightly compared to the prior year (16 compared to 13) but still continued a general decline from historical averages. There were 4 representation, 8 decertification, 1 severance and 3 organizational security rescission elections.

V. APPENDICES

PUBLIC EMPLOYMENT RELATIONS BOARD
Organizational Chart



UNFAIR PRACTICE CHARGE
FLOW CHART



2004-2005 REPRESENTATION CASE ACTIVITY

I. Case Filings and Disposition Summary

Case Type	Filed	Closed
Request for Recognition	37	34
Severance	5	3
Petition for Certification	1	1
Decertification	13	14
Amended Certification	5	5
Unit Modification	38	45
Organizational Security	3	3
Petition for Board Review (MMBA)	4	3
Financial Statement	3	2
Public Notice	2	2
Arbitration	1	1
Mediation	191	171
Factfinding	25	26
Compliance	33	27
Totals	361	337

II. Prior Year Workload Comparison: Cases Filed

	2001-2002	2002-2003	2003-2004	2004-2005	4-Year Average
Fiscal Year	373	304	338	361	344

III. Elections Conducted

Decertification	8
Organizational Security Approval	0
Organizational Security Rescission	3
Representation	4
Severance	1
Unit Modification	0
Total	16

Elections Conducted: 7/1/2004 to 6/30/2005

Case No.	Employer	Unit Type	Winner	Unit Size
Decertification	*Subtotal:*	*8*		
LA-DP-00345-E	VENTURA COUNTY CCD	Operations, Support Services	SEIU Local 535	102
LA-DP-00344-E	VENTURA COUNTY CCD	Office Technical/Business Services	SEIU Local 535	391
SA-DP-00209-E	ALPINE COUNTY UNIFIED SCHOOL DISTRICT	Wall Classified	No Representation	11
SA-DP-00210-E	ALPINE COUNTY OFFICE OF EDUCATION	Wall Classified	No Representation	8
SF-DP-00259-E	CONTRA COSTA CCD	Wall Classified	Public Employees Union Local #1	476
LA-DP-00348-E	SANTA BARBARA COMMUNITY COLLEGE DISTRICT	Wall Certificated	SBCC Instructors' Association	782
SA-DP-00212-E	MERCED COUNTY OFFICE OF EDUCATION	Other Certificated	No Representation	22
SF-DP-00260-M	WEST BAY SANITARY DISTRICT	Operations, Support Services	No Representation	16
Organizational Security - Rescission	*Subtotal:*	*3*		
SA-OS-00134-E	CLOVIS USD	Operations, Support Services	Not Rescinded	452
SA-OS-00135-M	COUNTY OF FRESNO	Eligibility Workers	Not Rescinded	835
LA-OS-00215-E	BUELLTON UnESD	Wall Certificated	Not Rescinded	35
Representation	*Subtotal:*	*4*		
SA-RR-01054-E	TURLOCK USD	Instructional Aides	CSEA & Its Chapter 56	257
SA-RR-01057-E	TURLOCK USD	Office Technical/Business Services	Turlock Classified AFT	129
SA-RR-01064-E	YOLO COE	Other Certificated	Yolo Teachers Association	44
Representation	*Subtotal:*	*4*		
SA-RR-01063-E	YOLO COE	Other Classified	AFSCME Council 57	19
Severance	*Subtotal:*	*1*		
LA-SV-00142-E	INGLEWOOD UNIFIED SCHOOL DISTRICT	Security	Inglewood Police Officers Association	13

Total Elections: 16

2004-2005 UNFAIR PRACTICE CHARGE STATISTICS

I. Unfair Practice Charges Filed by Region

Region	Total
Sacramento	243
San Francisco	275
Los Angeles	320
Total	1126

II. Unfair Practice Charges Filed by Act

Act	Total
Dills Act	81
EERA	283
HEERA	439
MMBA	293
TEERA	2
Trial Court Act	10
Court Interpreter Act	18
Total	1126

III. Prior Year Workload Comparison: Charges Filed

	2001/2002	2002/2003	2003/2004	2004/2005	4-Year Average
Total	935	802	835	1126	925

IV. Unfair Practice Charge Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	98	95	123	316
San Francisco	84	113	114	311
Los Angeles	122	212	148	482
Total	304	420	385	1109

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1565a-M	Fresno Irrigation District Employees Association v. Fresno Irrigation District	Remand from Court of Appeal directed Board to vacate December 12, 2003 decision in Fresno Irrigation District (2003) PERB Decision No . 1565-M regarding use of district facilities for union meetings.	Court of Appeal found no violation of MMBA when district denied association use of district facilities for meetings. Per Court of Appeal, Board dismissed complaint and underlying unfair practice charge alleging district failure to meet and confer over change in policy regarding facilities use by association.
1645a	James Eric Ferguson v. Oakland Unified School District	Request for Reconsideration.	Denied request for reconsideration where no grounds set forth in PERB Regulation 32410 were stated. Rearguing same facts presented on appeal did not fulfill requirements of PERB Regulation 32410.
1646a	James Eric Ferguson v. Oakland Education Association	Request for Reconsideration.	Request for reconsideration not granted when same facts presented on appeal were set forth and no grounds set forth in PERB Regulation 32410 were included.
1655-M	Elizabeth Geismar v. Marin County Law Library	Librarian who decorated her library cart, asked for a job description and schedule change was terminated.	Charge must indicate protected activity and nexus with adverse action to establish prima facie case of unfair practice. Board found no protected activity.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1655a-M	Elizabeth Geismar v. Marin County Law Library	Request for Reconsideration. Representative for charging party made up derogatory names for individual Board members which were used to refer to the Board members in the request.	Request denied where no grounds under PERB Regulation 32410 stated. Representative for charging party sanctioned for use of derogatory references to individual Board members.
1656-H	Academic Professionals of California v. Trustees of the California State University	Charge alleged that University violated HEERA by unilaterally implementing a non-discrimination policy for students.	Board dismissed. Adoption of federally mandated policy for investigating student complaints of unlawful discrimination is not within scope where policy states that any discipline will follow contractual guidelines.
1657	United Teachers of Los Angeles v. Los Angeles Unified School District	Temporary teacher refused to sign form that was valid condition of employment based on union representative advice.	Refusal to perform a valid condition of employment is not protected activity. Following union advice does not raise conduct to level of protected activity.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1658-H	Academic Professionals of California v. Trustees of the California State University	Union alleged university violated HEERA by unilaterally implementing change in reporting of improper governmental activities and policy that fails to inform employees of Weingarten rights.	Board dismissed charge as university's policy was not a change from past practice since nothing in policy conflicted with past practice or contract. Employer policy that fails to inform employees of Weingarten rights is not unlawful since nothing mandates that an employer affirmatively inform employees of right to representation.
1659-H	State Employees Trade Council United v. Trustees of the California State University (Stanislaus)	SETC alleged violation of the collective bargaining agreement. The agreement provides for final and binding arbitration of disputes.	The Board placed in abeyance and deferred the charge to arbitration.
1660	Ravenswood Teachers Association v. Ravenswood City Elementary School District Ravenswood Teachers Association v. Edison Brentwood Academy	Union filed charge for determination of public school employer of charter school for purposes of EERA.	Board found that charter school, and not district, was the public school employer for purposes of EERA.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1661	Ravenswood Teachers Association, CTA/NEA v. Edison Schools, Inc.	Charge related to Ravenswood City Elementary School District (2004) PERB Decision No. 1660.	Board dismissed this charge alleging that Edison Brentwood was the "public school employer" where Board found that charter school was the proper employer in PERB Decision No. 1660.
1662	Abdullah Malik v. California Federation of Teachers	Appeal filed in response to Board agent dismissal.	Appeal must state specific issues of procedure, fact or law and rationale, identify the page or part of the dismissal to which the appeal is taken and state grounds.
1663-M	Service Employees International Union, Local 817 v. County of Monterey	Exclusive representative charged employer assistance to rival union.	Board found county violated MMBA by designating a rival union an "employee organization" under its local rules.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1664-M	Service Employees International Union, Local 790 v. City & County of San Francisco	Local 790 alleged that the city discriminated against a union steward for engaging in protected activity, and interfered with her rights as an employee by, among other things, involuntarily transferring her to a different department. Local 790 also alleged that the city reorganized and relocated work units without notice or opportunity to bargain.	The Board dismissed the charge. The actions taken regarding the union steward did not constitute adverse actions. The steward was transferred because of lack of work in her department. Local 790 did not show how the reorganization affected terms and conditions of employment.
1665	Associated Administrators of Los Angeles v. Los Angeles Unified School District	Charge alleged numerous positions were supervisorial rather than management under EERA.	Board adopted proposed decision finding that district properly designated some classifications and improperly designated others to be managerial and thus excluded from the supervisors unit.
1666-M	Raymond Lowery v. Service Employees International Union, Local 790	Employee alleged union breach of duty of fair representation where union declined to represent him at termination hearing on grounds likelihood of success was minimal.	Board dismissed charge alleging breach of duty of fair representation where employee whose license was suspended was terminated by employer for failure to posses valid license and union declined to represent at termination hearing believing likelihood of employee prevailing minimal as union decision was not arbitrary or devoid of honest judgment.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1667	George V. Mrvichin v. Los Angeles Community College District	Employee alleged discrimination by district based on protected activities.	Board dismissed charge alleging that district discriminated against employee for protected activities as employer's denial of grievance is not interference with employee rights.
1668	Bryan Eric Astrachan v. Los Angeles Community College District	Charge alleged discrimination by District for protected activities.	Board dismissed charge and complaint as charging party failed to prove employer had knowledge of protected activities.
1669-M	International Federation of Professional & Technical Engineers, Local 21, AFL-CIO	District charged with unlawfully assisting decertification effort.	No unlawful interference by employer by letter to employees informing of deficiencies in decertification petition and provision to employees of applicable rules and regulations governing decertification petitions.
1670	John Rossmann v. Orange Unified School District	Individual employee filed unilateral change violation charge with allegations of violation of sections or EERA protecting collective bargaining rights of employee organizations.	Individual employees do not have standing to bring unilateral change violations nor allegations of violations of sections of EERA that protect collective bargaining rights of employee organizations.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1671	Jose Perez v. Fullerton Elementary School District	Charging party alleged adverse action was taken against him due to protected activity.	Protected activity followed by adverse action is not sufficient allegation without nexus to establish that unfair practice occurred. If adverse action is based on other conduct burden has not been met.
1672-H	California Faculty Association v. Trustees of the California State University	CFA alleged that CSU implemented policies regarding investigation of whistleblower complaints without notice or opportunity to bargain.	The Board dismissed the charge because the policies on their face did not change policies regarding employee privacy rights, employee cooperation during the investigation of a whistleblower retaliation complaint or the right to union representation.
1673-H	Robert J. O'Malley v. California Nurses Association	O'Malley alleged that CNA used his agency fees before issuing a Hudson notice. CNA was both proactive in attempting to stop the university's deduction of the fees and refunded his fees with interest. Undisputed evidence showed that the Hudson notice was actually sent to all non-members at addresses provided by the university before the fees were deducted.	The Board dismissed the charge, finding California Nurses Association (O'Malley) (2004) PERB Decision No. 1607-H dispositive, i.e., once CNA refunded the fees, there is no harm that the Board can remedy. The Board overturned California School Employees Association, Chapter 258 (Gerber) (2001) PERB Decision No. 1472 to the extent it was inconsistent with this decision.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1674	Fresno County Office Schools Educators Association v. Fresno County Office of Education	The association alleged discrimination against two union officers for their protected activities, by, among other actions, involuntarily transferring them to positions with less favorable working conditions. The association further alleged that Fresno COE did not follow CBA procedures in implementing the involuntary transfers.	The Board found that the union officers engaged in protected activity, the involuntary transfers was an adverse action and that the various factors established a nexus between the two, including departure from part practice, timing, shifting justifications, prior meritorious work records, and management statements at a staff assembly. The Board also found that Fresno COE did not follow CBA procedures in implementing the involuntary transfers. This decision has been appealed to the 5th District Court of Appeal.
1675-M	Andrew Jeffers v. Service International Union Local 616	Allegations against exclusive representative for breach of duty of fair representation where contract allows employee to pursue grievance arbitration without union consent.	Duty of fair representation applies even where contract allows employee to pursue grievance arbitration without union consent.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1676-M	Jan Goddard v. Rainbow Municipal Water District	Goddard alleged that the district terminated him for telling fellow employees that the general manager had offered promotional opportunities to another employee if that employee would help to prevent the union from affiliating with a certain labor consulting firm.	The Board found that the district discriminated against Goddard for his protected activity. Goddard's conduct in disclosing a confidential communication did not lose its protected nature since he simply reported a conversation that he overheard and believed to be unlawful while performing his regular duties.
1677	Peter Hein v. SEIU Local 790	Violation of duty of fair representation filed after charging party was questioned by a union representative in a disciplinary meeting and union did not inform employee of promotional exam nor represent employee before Civil Service Commission or in court on Americans with Disabilities action.	No violation of duty of fair representation. Exclusive representative does not owe a duty to members in a forum over which the union does not control the means to a particular remedy. No duty to represent member in extra contractual forums such as Civil Service Commission and court action under Americans with Disabilities Act. Exclusive representative has no obligation to inform employee of a promotional exam.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1678	Delano Joint Union High School District and Association of Student Affairs Support Specialists and California School Employees Association and its Delano High Chapter 79	Request for classification of newly created position.	Board dismissed request for recognition where employees at issue were found to be in existing classified unit and petition was not filed within proper window period.
1679	Evelyn Ybarra-Grosfield v. Oxnard Elementary School District	Employee alleged district discriminated against her for protected activities.	Charge dismissed where employee failed to demonstrate any disparate treatment and no other indicia of unlawful animus was present.
1680-S	International Union of Operating Engineers v. State of California (State Personnel Board)	Union charged State Personnel Board violated Dills Act by bringing legal action in another forum challenging a PERB decision.	Board dismissed charge alleging that State Personnel Board violated Dills Act by bringing legal action in another forum challenging a PERB decision.
1681-M	Municipal Employees Association of Beverly Hills v. City of Beverly Hills	Union charged city improperly designated certain employees as confidential.	Where employee organization no longer believes employees properly designated confidential pursuant to local agency rules proper procedure is unit modification action as opposed to unfair practice charge. Board found challenge to local agency rule adopted 20 years prior to be untimely.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1682	California School Employees Association v. Desert Sands Unified School District	CSEA alleged that the district unilaterally transferred covert camera installation work from one group of employees to another, both within the bargaining unit without bargaining with CSEA.	The Board found that transfer of work among classifications within the unit to be within the scope of representation. District rights clause in CBA did not waive right to bargain. CSEA's motion to amend its charge at the hearing was denied as untimely. The appropriate remedy is to return to the status quo and order the district to negotiate the issue with CSEA.
1682a	California School Employees Association v. Desert Sands Unified School District	CSEA requested reconsideration on the remedy. The Board had ordered restoration to the status quo ante but neglected to order the covert camera installation work transferred back to the ERTs.	The Board granted reconsideration. CSEA's request met the requirements for reconsideration. CSEA can only negotiate from a fair position if it is placed where it would have been but for the District's unlawful acts. The request was timely filed under PERB Regulation 32130.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1683	Lee Peterson v. California School Employees Association & its Chapter 36	Charging party alleged removal from union position was due to holding concurrent office in Classified Senate and was interference with relationship with employer.	Classified Senate is not an "employee organization" therefore holding office in such an organization is not protected activity. Charging party did not establish that removal from union office was unlawful interference in relationship with employer, therefore there was no adverse action by union.
1684	Yosemite Faculty Association v. Yosemite Community College District	Charging party requested withdrawal of charge prior to Board action.	Board granted charging party's request to withdraw unfair practice charge as there was no indication the withdrawal was not in the best interests of the parties or inconsistent with EERA.
1685	Allan Hancock College Part-Time Faculty Association v. Allan Hancock Joint Community College District	The association alleged that district's use of administrators instead of part-time faculty to teach certain classes constituted an unlawful transfer of work.	Board dismissed charge where it was undisputed that administrators previously taught classes sporadically and no other facts indicated teaching duties were not overlapping.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1686-S	Stationary Engineers Union Local 39 v. State of California (Department of Veterans Affairs)	Union business representative received complaints about supervisor. Investigation was conducted by state but state refused to provide investigation report to union business representative based on claim of attorney client privilege and attorney work-product.	Board held that attorney-client or work product privilege may be impliedly waived by placing the contents of the allegedly privileged communication at issue in a case. Determination must be made on case-by-case basis.
1687	Bruce P. Townsend v. Visalia Unified School District	Employee alleged constructive termination for protected activities.	Board held that charging party's fear of a future negative performance evaluation did not establish the intolerable working conditions necessary to show constructive termination. Statute of limitations begins to run on date employee effectively communicates the decision to resign not date he subjectively decides to resign.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1688	Elk Grove Unified School District and Elk Grove Administrative Support Association/AFSCME Local 258	This case involves competing requests to represent 30+ classifications of administrative support staff (approximately 100 employees). EGASA proposed a new unit solely composed of these employees. AFSCME proposed to put them in the existing classified unit. Neither unit is a Sweetwater unit.	Since neither of the proposed units is a Sweetwater unit, the Board found the AFSCME unit to be the appropriate unit, as the largest reasonable unit. The Board found that the unit proposed by EGASA did not have a community of interest separate and distinct from the employees in the classified unit. The Board was not persuaded by EGASA's argument that the employees preferred its proposed unit.
1689-H	University Council American Federation of Teachers v. Regents of the University	University made changes to health benefits without union opportunity to negotiate.	Implementation of significant changes in health benefits without affording union opportunity to negotiate is violation of HEERA.
1690-S	Kevin J. Reddington v. State of California (Department of Forestry & Fire Protection)	Charging party alleged employer discrimination based on protected activity.	Board held charge lacked specificity. Charge must include more than mere statement that there is a premeditated conspiracy. Allegation must include "who, what, when, where and how" of charge.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1691-S	IUOE Local 12 v. State of California (Department of Transportation)	Local 12 alleged that the state unilaterally changed the workweek schedule at Shop #31 in Kearney Mesa.	The Board dismissed the charge and deferred the charge to final and binding arbitration. Local 12's allegations are covered by the CBA workweek provisions and entire agreement clause. The state has agreed to waive procedural defenses.
1692	Rosa Montoya & Salinas Valley Federation of Teachers, AFT Local 1020, AFL-CIO v. Salinas Union High School District	Montoya and Local 1020 filed its charge on March 26, 2003, however, they knew of the district's final decision on her grievance, at issue in the charge, no later than July 2002.	The Board dismissed the charge as untimely.
1693-M	Timothy L. Hessong v. Service International Union, Local 250	Hessong alleged that Local 250 breached the duty of fair representation by taking over 2 years to process his grievance and Local 250's refusal to pursue the grievance through arbitration.	The Board found that Local 250 did not breach the duty of fair representation because Local 250 preserved the timelines while processing the grievances, did not abandon the grievances, kept Hessong apprised of the progress, and communicated to Hessong its belief that the grievance lacked merit. The Board does not judge whether the union's position is correct, only whether it was devoid of any rational basis or whether it was reached for arbitrary reasons.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1694-S	Karen Sue Sandberg v. California State Employees Association	Employee alleged breach of union duty of fair representation.	Board dismissed charge where no facts were provided to support allegation that union failed to properly represent charging party.
1695-M	AFSCME v. City of Ontario	AFSCME alleged that the city unilaterally changed disciplinary procedures by requiring a deadline to request an oral hearing after receiving notice of termination.	The Board dismissed the charge. A manager's statement that one provision of the MOU was "no longer necessary" because it was covered under another provision of the MOU did not state a prima facie case of unilateral change. AFSCME did not present evidence of a past practice of not requiring a deadline for a request for oral argument.
1696-S	Melodi F. Harris v. California State Employees Association	Violation of duty of fair representation alleged where union did not pursue grievance.	Union is not obligated to pursue grievance to any level if reasonable belief that claim is without merit. No requirement that union seek waiver of timeliness or pursue matter through informal discussions so long as actions are not arbitrary or in bad faith.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1697-H	Charolette Cornelius v. Trustees of the California State University	Cornelius alleged that she was given a notice of termination and was not hired in other positions because she signed up for steward training.	The Board dismissed all allegations occurring before February 22, 2002 as untimely and dismissed the charge on the merits for failure to show nexus as CSU had approved the steward training and had terminated Cornelius for misconduct.
1698-M	Service Employees International Union Local 949 v. City of San Rafael	Alleged that local agency violated MMBA by enforcing unreasonable rule.	Board found disputed rule consistent with and effectuating purpose of express provisions of MMBA. Board declined to depart from holding in City of Santa Barbara 125 Cal.App.3d 459 where court held the contract-bar doctrine is not incorporated within the MMBA.
1699-M	Yuba County Employees' Association, Local #1 v. County of Yuba	Charge alleged city violated MMBA by unilaterally changing salary differentials.	Board dismissed where charge failed to establish a policy or practice of maintaining set salary differentials between the classifications at issue.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1700-H	University Professional & Technical Employees, CWA Local 9119, AFL-CIO v. Regents of the University of California	Charge alleged university ban on union representative from all facilities was overbroad and union access rights were violated by several policies.	Board found ban on union representative overbroad and not narrowly tailored to time, place, manner restriction as it applied to all university facilities, even those open to public. Requirement that union representative sign-in or verbally identify self prior to entering facilities and identify employee to be visited found reasonable. Ban on all demonstrations found overbroad as policy did not address situations where demonstrations would be permissible and ban on use of phones to communicate with union unless in collective bargaining agreement found violation of HEERA. Ban on access to laboratory reasonable due to lab operational realities.
1701	Options for Youth-Victor Valley, Inc. v. Victor Valley Options for Youth Teachers Association	OFY, a charter school, alleged that the NLRA preempted the association's request for recognition of the teachers' bargaining unit.	The Board granted the association's request for recognition and found that OFY is a public school employer under EERA because it is a charter school and is 90% state-funded. Only an appellate court may determine a federal preemption issue, not PERB.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1702	Elaine Lavan v. Berkeley Unified School District	Lavan claimed the district discriminated against her by issuing a letter of reprimand for engaging in protected activity.	The Board dismissed the charge because Lavan failed to show a nexus between the adverse action and the protected conduct. The adverse action occurred before the protected conduct and the district's conduct did not violate the CBA.
1703-M	County of San Joaquin v. San Joaquin County Correctional Officers Association	The county requested to withdraw its unfair practice charge and appeal with prejudice since the parties had jointly entered a comprehensive settlement agreement.	The Board granted the county's request as being in the parties' best interests.
1704-M	Teamsters Local 517 v. Golden Empire Transit District	Local 517 alleged that the district refused to provide unit employees' home addresses and phone numbers.	The Board found that the district violated the MMBA. Local 517 is entitled to all information that is "necessary and relevant" to the discharge of its duty of fair representation. Failure to provide this information is a "per se" violation of the duty to bargain in good faith because it is fundamental to the expanse of a union's relationship with the employees. The Board further found that Local 517 did not waive its right to obtain this information.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1705-H	Academic Professionals of California v. Trustees of the California State University (Stanislaus)	Scope of representation issue where new rule of conduct alleged related to disciplinary procedures.	No implementation of new rule of conduct where university merely informs employees of existence of Government Code section which limits state resources.
1706	Cindy Lynn v. College of the Canyons Faculty Association	Charge alleged union breached duty of fair representation by failure to pursue grievance.	Board found union is not required to pursue grievances that are unmeritorious. Board adopted proposed decision dismissing complaint.
1707-M	Delores Bernice Flenoy v. Alameda County Medical Center	Flenoy alleged that she was disciplined because of her protected activity.	The Board dismissed the charge since Flenoy failed to allege a nexus between her protected conduct and the adverse action. The county reprimanded her for tardiness before her protected conduct, followed progressive discipline policies, and offered consistent justification for her discipline.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1707a-M	Delores Bernice Flenoy v. Alameda County Medical Center	Flenoy requested reconsideration of the Board's decision in Alameda County Medical Center (2004) PERB Decision No. 1707-M. Flenoy raised new evidence.	The Board denied Flenoy's request because Flenoy did not meet the requirements for consideration. For some evidence, the conclusory allegation that it was not previously available does not prove the allegation's truth. The remaining evidence did not support a nexus between the protected conduct and the adverse action.
1708-M	Diane Huntsberry v. County of Alameda	Charge alleged county discriminated against employee for protected activities. Weingarten violation raised for the first time on appeal.	Board dismissed charge where peace officer employee who was terminated for misconduct did not allege that she participated in any protected activities. Board declined to consider Weingarten violation raised for first time on appeal.
1709-M	Diane Huntsberry v. Alameda County Probation Peace Officers Association	Allegation that union breached duty of fair representation by refusing to represent her before civil service commission and in criminal proceedings.	Board dismissed charge as an exclusive representative does not owe a duty of fair representation to unit members in a forum over which the union does not exclusively control the means to a particular remedy.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1710	Burbank Unified School District and California School Employees Association	The district challenged the status of two administrative secretaries and sought to exclude those positions from the classified unit as confidential employees.	The Board accepted the district's petition for one of the employees and denied it for the other. The Board made the denial based on the position that the supervisor's duties have not changed over time and he deals with confidential issues in a general sense; there was no evidence how much of his duties pertain to employer-employee relations. The Board concluded that there was insufficient evidence to find that the secretary's duties normally require access to confidential employer-employee relations-related information, or contributes to the development of management positions.
1711-S	California State Employees Association, Local 1000, SEIU, AFL-CIO,CLC v. State of California (Department of Consumer Affairs)	Employer interference, restraint and coercion of employees alleged where employer disciplined supervisor who testified at a hearing in support of rank and file grievants.	Board determined employer's discipline of supervisor did not interfere with employee rights. State did not unlawfully deny union request for two investigative reports as union did not demonstrate one of the reports was relevant and privacy concerns outweighed the union's need for the other.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1712	California School Employees Association & its Chapter 528 and Folsom-Cordova Unified School District	Charge alleged district violated EERA by unilaterally contracting out transportation services violating duty to bargain in good faith.	Board found district's firm decision to contract out was a unilateral violation of EERA. Decision to delay implementation did not alter character of the decision. Business necessity defense was rejected as there was no emergency or lack of alternative since district was not required to contract out at any time.
1713	East Side Teachers Association, CTA/NEA v. East Side Union High School District	Charge alleged that district violated EERA by changing its policy of using a particular form for submission of public complaints against employees. District raised deferral to arbitration defense but did not raise it in its answer to the charge.	Board found district violated EERA by unilateral change of form for public complaints against employees. Board held that district deferral to arbitration defense waived as it was not raised in the answer as deferral to arbitration is not jurisdictional but rather an affirmative defense. That portion of Lake Elsinore School District (1987) PERB Decision No. 646 in conflict with this decision is overruled.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1714	Simi Valley Educators Association v. Simi Valley Unified School District	The association alleged that the district disciplined a teacher/site representative for his protected activities.	The Board found a violation. The teacher engaged in protected conduct by, inter alia, challenging a proposed program and requesting representation for a meeting with the principal. By her silent, unannounced and frequent visits to his classroom, culminating in a memo imposing 26 hours of observation in a 2-month period, the district imposed adverse action on the teacher. The Board found evidence of nexus through, inter alia, the timing of the action, the district's departure from past procedures, the teacher's prior exemplary work record, the principal's expressed incorrect belief that the teacher had filed a grievance.
1715-M	Riverside Sheriff's Association v. County of Riverside	Union alleged bad faith surface bargaining by county.	No bad faith bargaining by county where totality of circumstances indicated no surface bargaining occurred.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1716	Carl E. Richards v. California School Employees Association & its Chapter 183	Richards alleged that CSEA breached its duty of fair representation by not appealing his grievance.	The Board dismissed the charge finding that CSEA quickly responded to Richards' concerns about changes in vacation carryover and explained its decision not to appeal his grievance. CSEA's conduct was found not arbitrary, discriminatory or in bad faith.
1717	California School Employees Association & its Chapter 396	Union alleged breach of duty to bargain in good faith by unilateral change involving district policy concerning finality of hearing officer's decision.	Board dismissed charge based on Education Code 45113 as it existed at the time. Regardless of ambiguity in contract language by statute, hearing officer decision was not final but rather subject to adoption by the district.
1718	Laurel Freeman v. Madera Unified School District	Employee alleged disparate treatment by employer.	No employer discrimination or disparate treatment where charging party failed to set forth facts showing disparate treatment. Timing alone does not establish nexus between adverse action and protected activity.
1719	Laurel Freeman v. Madera Unified Teachers Association	Employee alleged breach of duty of fair representation by exclusive representative for refusal to take grievance to arbitration.	Duty of fair representation not breached by exclusive representative's reasonable refusal to take grievance to arbitration.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1720-M	International Association of Firefighters, Local 188 v. City of Richmond	Charge that employer refused to negotiate over decision to layoff employees.	Board dismissed charge as under MMBA, a decision to layoff employees is not within the scope of representation but the effects of a layoff are negotiable. Any request to negotiate over the effects of a layoff must be specific and identify the negotiable areas of impact.
1721	International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. San Francisco Unified School District and City and County of San Francisco	Union alleged ambiguity as to whether city charter provision providing for interest arbitration was applicable to school district.	Board reversed dismissal of charge that city violated MMBA by refusing to participate in interest arbitration proceeding required by city charter as union established ambiguity as to whether city charter provision was applicable to schools.
1721a	International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. San Francisco Unified School District and City and County of San Francisco	The employer sought reconsideration of the Board's decision to remand the underlying case for issuance of a complaint.	The Board denied the employer's request for reconsideration finding that the employer's factual arguments were better suited for an evidentiary hearing.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1722	Woodland Education Association v. Woodland Joint Unified School District	Union alleged employer interference stating district violated EERA by making threats against teachers and also alleged discrimination against teachers.	Board dismissed portion of complaint alleging discrimination but found district violated EERA by making threats against teachers and noted that due to legislative amendment of EERA section 3543 right of self-representation no longer exists under EERA.
1723-S	Aldo Lucketta v. State of California (Department of Corrections)	Unfair practice charged for discipline allegedly based on protected activity where employee told psych techs to go against written policy and act in a manner inconsistent with management directives.	Board found no protected activity nexus to discipline. Telling employees to violate management directives is not protected activity.
1724-M	Modesto City Employees Association v. City of Modesto	The association alleged that the city changed its practice of providing health benefit parity among bargaining units.	The Board dismissed the charge because the alleged past practice of benefit parity does not supersede the clear language of the MOU which provides a schedule of health care premiums for the duration of the MOU and a zipper clause that precludes bargaining on matters covered by the MOU absent mutual agreement of the parties.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1725	Hilmar Unified Teachers Association v. Hilmar Unified School District	The association alleged that the district interfered with its rights by attempting to bar the association from contacting the district's health care administrator and by threatening to cancel a mediation session if the association proceeded with an informational meeting in front of district offices.	The Board found that the district interfered with the association's right to contact the health plan administrator to inform unit members about health plans under consideration in bargaining as part of its duty to fairly represent members. However, the Board found that the association waived its right to hold the informational meeting when an association representative committed to the district not to hold the meeting at that time.
1726	Frank Coverson v. United Educators of San Francisco	Charge alleging breach of duty of fair representation filed six years after conduct. No information provided to indicate why charge was filed six years after conduct.	Charge not timely filed six years after conduct alleged to breach duty of fair representation under EERA section 3541.5(a)(1).
1727	East Whittier Education Association v. East Whittier School District	Union alleged district policy prohibiting the wearing of certain union buttons in the elementary school classroom was a violation of EERA.	Board found that the district violated EERA by adopting policy prohibiting the wearing of certain union buttons in the elementary school classroom and other instructional settings.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1728	Evelyn Ybarra-Grosfield v. Oxnard Elementary School District	Ybarra-Grosfield filed a charge identical to a grievance she filed against the district regarding payment issues. The grievance was submitted to arbitration.	As the standards for deferral were met in this case, the Board dismissed and deferred the charge to arbitration.
1729	IUOE Local 39 v. Berkeley Unified School District	Union alleged employer refusal to bargain in good faith on health care benefit.	Board found waiver of right to bargain health care benefit increase due to language of management rights clause in collective bargaining agreement.
1730	United Educators of San Francisco v. San Francisco Unified School District	UESF alleged that the district unilaterally transferred a bargaining unit position from UESF to the United Administrator's bargaining unit. A grievance was filed relating to this issue.	The Board dismissed the charge. The Board would not defer the charge to arbitration since the 3 Collyer requirements were not met. The CBA provision was not provided so that it was impossible to determine if the grievance and charge covered the same subject. The Board also held there was no unilateral change.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1731-M	SEIU Local 535 v. County of Fresno	Exclusive representative alleged bypassing of union by employer's formation of County Jail Working Group.	No violation of MMBA by county in forming working group to establish working conditions in new facility where exclusive representative participated in formation by providing names of some of the potential participants to county.
1732-H	California State Employees Association v. Trustees of the California State University	Retaliation for protected activities alleged by union where charging party was not rehired after voluntary resignation and employer did not provide all documents requested by employee organization.	Board found no retaliation after voluntary resignation and decision not to rehire was not based on previous protected activity. Employer has no obligation to provide requested information where employer partially complies and employee organization never reasserts or clarifies request.
1733	Lee Peterson v. California School Employees Association & its Chapter 36	Peterson alleged that CSEA discriminated against him by barring him from running for union office.	The Board dismissed the job since Peterson did not demonstrate any impact of the CSEA's conduct on the employer-employee relationship. Exclusion from participation in a union election is not the same as suspension or dismissal from membership.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1734	California School Employees Association & its Chapter 302 v. Fairfield-Suisun Unified School District	Charge alleged that district discriminated against employee for engaging in protected activity and unilaterally changed the layoff policy.	Discrimination allegation dismissed for failure to demonstrate connection between employee's participation in protected activity and the adverse act. The unilateral change allegation was remanded for further investigation.
1735-S	Karin Chen v. State of California (Department of Transportation)	Chen alleged the state retaliated against her by issuing an expectations memorandum for her protected conduct.	The Board dismissed the charge. The expectations memorandum was not an adverse action because it merely clarified Chen's job duties. Assuming that the memo was an adverse action, Chen also did not demonstrate nexus.
1736-S	Karin Chen v. California State Employees Association	Chen alleged CSEA breached the duty of fair representation.	The Board dismissed the charge as untimely.
1737	California School Employees Association & its Chapter 244 v. Colton Joint Unified School District	Unilateral change alleged where employee transferred to different location within district not related to discipline.	Board found no unilateral change when transferred employee has no actual change in duties so long as transfer is not for disciplinary reasons.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1738-M	Tanya Lea DuLaney v. City of San Diego and Tanya Lea DuLaney v. San Diego Municipal Employees' Association	MMBA violation alleged where city denied a non-agency fee payer pre-tax dollars to enroll in specific employee group dental and eye-care plans exclusively for union members.	MMBA violation found where city denied a non-agency fee payer the ability to use pre-tax dollars to enroll in union-only group dental and eye-care plans.
1739	Building Trades Council v. Oakland Housing Authority	Charge alleged that employer unilaterally assigned the work of regular employees to project employees.	The Board dismissed the charge finding no evidence that the employer departed from the terms of the parties' agreement.
1740	California State Employees Association, Local 1000, CSU Division v. Trustees of the California State University (Sacramento)	Charge alleged that the university discriminated against employee for protected activities.	The Board dismissed the charge finding no evidence of nexus.
1741	Orlando Eric Graves v. Trustees of the California State University	Charge alleged that the university discriminated against job applicant based on race.	The Board dismissed the charge because it has no jurisdiction to enforce statutes based on racial discrimination.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1742-M	Dennis Kromann v. Contra Costa County Health Services Department	Alleged unfair practice charged employer discriminated against charging party for protected activity.	Board found complaining about malfunctioning lock on narcotics cabinet not protected activity. Appeal denied where requirements of PERB Regulation 32635 are not met. Appeal must set forth the specific issues of procedure, fact, law or rationale to which the appeal is taken, identify the page or part of the dismissal to which each appeal is taken and grounds for each issue stated.
1743	Rodney Cummings v. Los Angeles County Office of Education	Cummings alleged that COE discriminated against him by issuing unfavorable employee appraisals, reprimands and a performance improvement plan because of his protected conduct.	The Board dismissed the charge for not providing a clear and concise statement of the facts as required by PERB Regulation 32615(a)(5). Although Cummings was advised of this in a warning letter, he did not file an amended charge.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1744	International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Berkeley Unified School District	Local 21 alleged that the district violated EERA when it refused to deduct dues from 6 formerly confidential employees now in the unit unless Local 21 agrees to negotiate for these employees different longevity and vacation schedules from other employees in the unit.	The Board dismissed the charge. Although it is unlawful to negotiate a proposal to impasse that conditions a non-mandatory proposal (unit modification) on acceptance of mandatory subjects (vacation schedules), there was no evidence presented that the district bargained the proposal to impasse. In addition, the district withdrew the proposal after Local 21 filed the charge.
1745	California School Employees Association & its Chapter 176 v. Barstow Community College District	CSEA requested to withdraw its appeal because the parties reached a settlement of the charge.	The Board granted CSEA's request.
1746	Forrest Fykes v. Los Angeles Unified School District	Fykes alleged that the district retaliated against him for filing unfair practice charges by conducting an unprecedented audit of his work to justify his termination and by issuing him a notice of recommended discipline.	The Board dismissed the charge. The Board found that the audit was not an adverse action. There was no evidence of nexus between the unfair practice charges, and the audit or notice of discipline.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1747-M	Richard E. Kempe v. IUOE Local 39	Employee alleged breach of duty of fair representation where union made decision to conduct arbitration hearing contrary to wishes of employee, by failing to meet with employee before the hearing and by failing to present certain evidence.	Board considered the totality of union conduct and dismissed charge after determination that although errors were made, the union's conduct did not constitute negligence that foreclosed the arbitration of the grievance.
1748	Victoria Aguilera v. Alum Rock Union Elementary School District	Charge alleged unilateral change of the involuntary transfer policy.	The Board dismissed the charge holding that employee did not have standing to allege bad faith bargaining. Discrimination allegation raised for the first time on appeal rejected for failure to demonstrate good cause to consider new evidence on appeal.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1749-S	Karin Chen v. California State Employees Association	Chen alleged that CSEA breached its duty of fair representation by failing to help her seek reasonable accommodation for a disability.	The Board dismissed the charge because the duty of fair representation does not extend to remedies outside of the CBA. There was no evidence that reasonable accommodation for a disability was covered by the CBA. Instead the reasonable accommodation form indicates compliance with the Fair Employment and Housing Commission. Even if the issue was covered by the CBA, Chen did not state facts showing that CSEA's conduct was arbitrary, discriminatory, or in bad faith.
1750-S	Karin Chen v. California State Employees Association	Chen alleged that CSEA breached the duty of fair representation when it failed to represent her in her grievance.	The Board dismissed the charge finding that CSEA's conduct was not arbitrary, discriminatory or in bad faith. Chen filed the paperwork in the Sacramento CSEA office rather than with the local steward. The union contacted Chen to explain proper procedure and continued to communicate with her.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1751-H	Academic Professionals of California v. Trustees of the California University	Employer refusal to bargain in good faith alleged as unilateral change within the scope of representation.	Where CSU policy does nothing more than notify students and employees of existing legal mandates there is no unilateral change.
1752-M	Donald E. Neal, RNC v. Contra Costa County Health Services Department	Appeal of Board agent dismissal.	Appeal must comply with PERB Regulation 32635 by setting forth specifics to which appeal is taken.
1753	Service Employees International Union, Local 1877 v. Oakland Housing Authority	Charge alleged that employer refused to meet and confer over the effects of the employer's decision to hire "project employees."	The Board dismissed the charge finding that charging party did not identify any negotiable effects.
1754	Mitchell K. Dorfman v. Los Angeles Unified School District	Appeal of Board agent dismissal of unfair practice charge based on termination of employee.	Charge is untimely filed under EERA when more than two years has lapsed since charging party knew or should have known of conduct underlying the charge.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1755	California State Employees Association v. Trustees of the California State University (Sonoma)	Charge alleged discrimination and refusal to provide necessary and relevant information.	The Board remanded the discrimination allegation for issuance of a complaint. The Board concluded that where there is a material factual dispute during the initial investigation, the charging party's allegations must be accepted as true, citing Golden Plains. The Board dismissed the information allegation finding insufficient facts to state a prima facie case.
1756	United Faculty Contra Costa v. Contra Costa Community College District	Allegation of bad faith regressive bargaining by employer.	Board found no regressive bad faith bargaining where charging party fails to set forth the totality of the conduct by the parties in negotiations. One indicator of bad faith bargaining is insufficient to demonstrate a prima facie case of unlawful conduct.
1757-M	Linda E. Womble v. County of Colusa	County employee alleged discrimination where county allegedly paid improper compensation for additional duties.	To establish a prima facie case of discrimination charging party must include facts to show that protected activity took place. Appeal may not include new evidence without showing of good cause.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1758-S	California Attorneys, Administrative Law Judges & Hearing Officers in State Employment v. State of California (Board of Prison Terms)	Allegation of refusal to bargain, retaliation and bad faith bargaining in violation of Dills Act.	No retaliation, or bad faith bargaining where state had right to change portal-to-portal policy under entire agreement clause. Where no information provided to show that state was not in ongoing negotiations for successor agreement there was no indication of impasse and no flat refusal to bargain. Lack of response to one proposal does not establish a violation of the Dills Act.
1759	California School Employees Association & its Chapter 318 v. Stockton Unified School District	Charge alleged that the district discriminated against an employee and unilaterally changed the release time and involuntary transfer policies.	The Board dismissed the charge finding there was no evidence that the district was motivated by the employee's protected activity when it denied employee's release time request and involuntarily transferred her to another school site. Further, there was no evidence that the district departed from existing policies.
1760	Academic Professionals of California v. Trustees of the California State University	Charge alleged that the university unilaterally changed its policy regarding employee representation at Skelly hearings.	The Board dismissed the charge finding that the evidence did not demonstrate a change in policy regarding the number of representatives allowed at Skelly hearings.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1761-M	Whittier City Employees Association v. City of Whittier	The association alleged that the city unilaterally changed the overtime policy when requiring department heads, not employees, to determine the mode of overtime compensation.	The Board dismissed the charge. Although internally inconsistent, under various policies and procedures, department heads are authorized to determine the method of overtime compensation.
1762-S	Lana Wilson-Combs v. State of California (Department of Consumer Affairs)	Wilson-Combs alleged that the state discriminated against her by refusing to meet with Wilson-Combs and her private attorney and by issuing a counseling memo to her.	The Board dismissed the charge because Weingarten does not confer a right to representation by private counsel, the Board does not enforce whistleblower statutes, no dates were provided for Wilson-Combs' alleged union activity. In addition, the Board lacks jurisdiction over claims of race or gender discrimination unless they allege an independent violation of the Dills Act.
1763	Sherry E. Radford v. California Teachers Association	The charge failed to state a prima facie violation of Radford's right to representation. The facts plead do not support the conclusion that the union acted in a discriminatory, arbitrary or bad faith manner. Moreover, since the duty of representation does not extend to extra-contractual forums, the union's failure to enforce the Education Code does not support a violation of this duty.	The Board agent's dismissal was upheld and adopted as a decision of the Board.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1764	Stanley J. Banos v. United Educators of San Francisco	Alleged union breach of duty of fair representation where grievance not pursued to arbitration filed within six months of reasonable belief that there will be no further assistance from union.	Unfair practice charge is timely filed within six months of reasonable belief there will be no further union assistance.
1765	United Teachers of Los Angeles v. Los Angeles Unified School District	An arbitration award held that the district did not violate the CBA when it increased class size. The charge alleged that the arbitration award was repugnant to the purposes of EERA.	The Board deferred to the arbitration award and dismissed the charge finding that the Dry Creek deferral standard was met. The facts considered by the arbitration panel are identical to the facts relevant to resolving the unfair practice charge.
1766-M	Laborers Local No. 270 v. City of Monterey	Local 270 alleged that the city unlawfully denied a unit employee his right to have his Local 270 field representative represent him at a termination hearing and unlawfully excluded the representative from the hearing.	The Board found that the city unlawfully excluded the union representative from the city counsel closed termination hearing. That the representative might have been a witness is irrelevant under the MMBA, particularly when the city's representative and chief witness was present in the hearing. The city unlawfully designated the union's attorney as the employee's representative.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1767	Vacaville Teachers Association v. Vacaville Unified School District	Charge alleged a unilateral change in the policy on the calculation of employee monthly salary deductions. The parties settled their dispute after the appeal was filed.	The Board granted the union's request to withdraw its charge and dismissed the appeal.
1768-M	Spencer Tacke v. Modesto Irrigation District	Tacke alleged that the district unlawfully placed senior engineers in a bargaining unit with non-professional employees.	The Board dismissed the charge. MMBA section 3507.3 provides for a right to separate representation for professional employees but does not require placement from one mixed unit to another. In addition, the district employment relations manual only permits employee organizations, not individual employees, to petition for unit modification.
1769	James Paul Paige v. AFT Local 1521	Paige alleged that Local 1521 breached the duty of fair representation for canceling an arbitration hearing and writing falsehoods about him.	The Board dismissed the charge. Local 1521's conduct was not arbitrary, discriminatory or in bad faith since it explained to Paige the reasons for refusing to proceed to arbitration. A union may withdraw a grievance if it determines the grievance lacks merit. Individuals alleged to have harassed Paige are not agents of Local 1521.

2004-2005 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
1770	California School Employees Association and its Chapter #1 v. Oakland Unified School District	CSEA alleged that the district unilaterally subcontracted District police work to Oakland Police Department.	District violated EERA by unilaterally subcontracting police work from district police force to Oakland Police Department
1771-H	George Sarka v. Regents of the University of California	Sarka alleged that the district did not comply with Skelly requirements when his immediate supervisor presided over the Skelly hearing and the district failed to provide him with requested documents before the hearing. Sarka further alleged that an independent party reviewer improperly considered whether union activity was the basis for his termination.	The Board dismissed the violations related to the Skelly hearing as untimely and the allegation regarding the independent party reviewer for failure to show the reviewer was an agent of the university.
1772	San Leandro Teachers Association v. San Leandro Unified School District	The charge failed to state a prima facie case. A union may not use school district mail facilities (i.e. mailboxes) to distribute political materials, regardless of who pays for the materials or when they were distributed.	The Board agent's dismissal was upheld and adopted as a decision of the Board.

2004-2005 DECISIONS OF THE BOARD

ADMINSTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-337a-H	George Sarka v. Regents of the University of California	Sarka requested reconsideration of the Board's decision in Regents of the University of California (2004) PERB Order No. Ad-337-H wherein the Board denied Sarka's request for special permission to appeal a Board agent's refusal to disqualify herself from investigation of his unfair practice charge.	The Board denied Sarka's request because it did not state any grounds for reconsideration as delineated in PERB Regulation 32140.
Ad-338-M	Elizabeth Geismar v. Marin County Law Library	Geismar filed amendment to unfair practice charge after dismissal had issued.	Any amendment to an unfair practice charge must be timely filed. Once dismissal has issued board agent no longer has jurisdiction and charge cannot be amended.
Ad-338a-M	Elizabeth Geismar v. Marin County Law Library	Request for reconsideration.	Request for reconsideration denied. Grounds set forth in PERB Regulation 32410 must be stated for request to be considered by Board.
Ad-339	Jose Perez v. Fullerton Elementary School District	District's response was late filed due to specific incident, immediately recognized and corrected with no prejudice to other party.	Board found good cause to allow late filing where delay was caused by specific incident (failure to fax document to Board) immediately recognized and corrected with no prejudice to other party.

2004-2005 DECISIONS OF THE BOARD

ADMINSTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-340	Allan Hancock College Part-Time Faculty Association v. Allan Hancock Joint Community College District	Filing was mailed to PERB Regional Office instead of PERB Headquarters thus causing it to be late-filed.	Board found good cause to excuse late filing.
Ad-341	Bernard N. Armas, Jr. v. San Ysidro Education Association	Late filing where party calculated appeal period based on work days not calendar days.	Board did not find good cause to excuse late-filing where warning letter clearly informed charging party that appeal period is calculated using calendar days, not work days.
Ad-342-H	Trustees of the California State University and California Faculty Association	Request for clarification of 1991 unit modification in light of PERB Case No. LA-UM-514-H. Union sought to include classifications in its unit that had been excluded for substantial period of time.	Board found students excluded from Unit 3 if degree-seeking graduate students, in the academic department in which they are employed to perform instruction and employed seeking a degree in that department. Union may not use unit clarification process to include classifications in its unit that have been excluded .

2004-2005 DECISIONS OF THE BOARD

ADMINSTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-343-S	International Union of Operating Engineers v. State of California (State Personnel Board)/State of California (Department of Personnel Administration)	DPA and IUOE filed a motion requesting that the Board reject the SPB's exceptions to an ALJ's proposed decision as untimely filed.	The Board denied the motion. The Board may grant extensions of time for good cause, which determination was made when the Appeals Office granted SPB an extension of time to file its exceptions. Further, the Board's practice has been to interpret PERB Regulation 32130(c) to add the five-day extension to deadlines in accord with the mailbox rule, Cal. Code of Civ. Pro. §1013.
Ad-344-H	Trustees of the California State University and California Faculty Association/California Alliance of Academic Student Employees/UAW	Late filing of response to request for judicial review.	Good cause for late filing found where in reorganization of job assignments staff person mailing response was not familiar with practice of mailing and faxing response to PERB and there was no prejudice to any party.
Ad-345	Turlock Unified School District and California School Employees Association & its Chapter 56 and Turlock Classified AFT	Temporary teacher refused to sign form based on union advice.	Refusal to perform a valid condition of employment is not protected activity. Following union advice does not raise conduct to level of protected activity.

2004-2005 DECISIONS OF THE BOARD

ADMINSTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-346	California School Employees Association & its Chapter 77 v. Lodi Unified School District	The district requested that the Board excuse its late-filed response to CSEA's exceptions.	The Board granted the district's request, finding good cause because the district's justification was "reasonable and credible." The district explained that its late filing was due to an attorney's plausible explanation that an ordinarily reliable clerical employee inadvertently neglected to file the document by fax or personal service, resulting in the filing occurring one day late.
Ad-347-H	Trustees of the California State University and California Faculty Association	Petition to add instructional student assistant (ISA) class to Unit 3.	Properly dismissed petition as ISA's represented by UAW and issues raised previously litigated in PERB Case No. LA-UM-723-H.
Ad-348	Masoud Mohseni v. United Teachers of Los Angeles	Charging party requested that the Board excuse his late-filed appeal, filed nearly two months after the filing deadline, due to illness.	The Board denied the request, finding that the charging party did not provide a reasonable and credible explanation of how his illness prevented his prompt filing.

2004-2005 DECISIONS OF THE BOARD

ADMINSTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-349	George V. Mrvichin v. AFT College Staff Guild, Local 1521	Charging party appealed the denial of his request for a second extension of time to file an appeal of the dismissal of his charge.	The Board denied the appeal, finding that the charging party did not explain how his medical condition prevented his timely filing or how litigation pending in another forum was relevant to his case before PERB.

2004-2005 DECISIONS OF THE BOARD

JUDICIAL REVIEW REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
J.R.-21	San Joaquin County Office of Education v. California School Employees Association	Board granted unit modification to establish a new unit comprising classifications in migrant education program. County argued this was not most appropriate unit and requested judicial review.	Request for judicial review or alternative request for reconsideration not granted where Board not required to establish "most appropriate" unit and no novel issue, unique statutory construction or likelihood that issue will be raised frequently so no special importance under PERB Regulation 32500(c).
J.R. 22	Options for Youth-Victor Valley, Inc. and Victor Valley Options for Youth Teachers Association	OFY requested judicial review of Options For Youth-Victor Valley, Inc. (2004) PERB Decision No. 1701, in which the Board granted the union's request for recognition in the certificated unit, despite OFY's claim that its status as an employer under the NLRA preempted the Board's jurisdiction under EERA.	The Board rejected OFY's request because OFY did not show that this case was one of "special importance" under EERA section 3542(a). OFY did not meet any of the prongs of the test for special importance. The mere statement that there are 600 charter schools and the number increases annually is not a sufficient explanation for granting judicial review.
J.R. 23-H	Trustees of the California State University and California Faculty Association/California Alliance of Academic Student Employees/UAW	Unit clarification request issue was basis for request for judicial review.	Unit clarification request does not rise to level of special importance necessary to establish basis for Board to request judicial review.

2004-2005 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 471	Werner Witke v. University Professional & Technical Employees	Witke sought injunctive relief against UPTE's failure to provide a timely Hudson notice prior to collection of agency fees.	Request Denied.
I.R. 472 I.R. 473 I.R. 474	Santa Clara County Government Attorneys Association v. County of Santa Clara Santa Clara County Registered Nurses Professional Association v. County of Santa Clara Santa Clara County Correctional Peace Officers' Association v. County of Santa Clara	The association in each of these bargaining units sought to enjoin the county from placing on its November 2004 general election ballot proposed amendments to its charter regarding matters within scope of representation without prior exhaustion of its bargaining obligation.	Request Denied.
I.R. 475	Eva M. Keiser v. Lake County Superior Court	Keiser sought injunctive relief alleging the Superior Court terminated her employment in violation of Court policies and the Trial Court Employees Act.	Request Denied.

2004-2005 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 476	San Bernardino Public Employees Association v. County of San Bernardino	The association sought to enjoin the county from its alleged improper processing of a unit modification petition.	Request Withdrawn.
I.R. 477	Union of American Physicians & Dentists v. State of California (Department of Corrections)	The union requested injunctive relief alleging the state entered into a consent decree in Federal Court that unilaterally alters the terms and conditions of employment.	Request Denied.
I.R. 478	Union of American Physicians & Dentists v. State of California (Department of Corrections)	The union sought to enjoin the state from failing to negotiate the effects of its unilaterally-implemented competency examination policy.	Request Withdrawn.
I.R. 479	Teamsters Local 856 v. County of Solano	The teamsters sought to enjoin the county from conducting a decertification election on March 29, 2005.	Request Denied.
I.R. 480	Richard T. Abbate, et al. v. Santa Clara County Correctional Peace Officers Association, Inc.	Abate sought to enjoin the association from collecting increased union dues which resulted from the conduct of an election held in violation of the union's internal bylaws.	Request Denied.

2004-2005 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
I.R. 481	Kit Carson Union Elementary School District v. Kit Carson Educators Association	The district requested PERB seek an injunction against the association to terminate "work to contract" activities.	Request Withdrawn.
I.R. 482	Amalgamated Transit Union, Local 1704 v. Omnitrans	The union sought injunction against Omnitrans with respect to a released time issue.	Request Withdrawn.
I.R. 483	Amalgamated Transit Union, Local 1704 v. Omnitrans	The union reactivated its request for injunction against Omnitrans with respect to a released time issue.	Request Denied.
I.R. 484	Kit Carson Union Elementary School District v. Kit Carson Educators Association	The district reactivated its request for injunction against the association to terminate "work to contract" activities.	Request Withdrawn.

2004-2005 LITIGATION ACTIVITY

Laborers International Union of North America and Rocco Davis v. State Employees Trades Council United, et al. San Bernardino County Superior Court Case No. SCVSS 094642 Docket No. 02-O-0332 (PERB Case Nos. LA-AC-58-H and LA-CE-709-H) Issue: LIUNA requests that PERB file an amicus brief with the San Bernardino Superior Court "explaining that superior courts—not PERB—have jurisdiction to determine the contractual propriety under a union's constitution of an alleged union restructuring, and the disposition of assets as a consequence thereof." LIUNA filed its request on 11/4/02. On 11/12/02, PERB notified the parties of its intent to intervene in this case and claim jurisdiction over the issues. On 11/19/02, the Court granted PERB's request to intervene. On 4/20/04, the Court continued the status conference until October 5, 2004 and issued the stipulated preliminary injunction. On 10/6/04, LIUNA requested Dismissal of the Complaint. On 10/7/04, the Court granted the Request for Dismissal.

IUOE Local 39 v. County of Placer and Placer County Civil Service Commission [Cross-Complaint] County of Placer v. IUOE and PERB Placer Co. Superior Court Case No. SCV 13694 Docket No. 02-O-0335 (Unfair Practice Charge No. SA-CE-78-M). Issue: County requests Court find PERB's administration of the MMBA over a Charter County is contrary to the California Constitution. On 12/13/02, PERB was served with Placer County's Notice of Motion and Motion for Leave to File Cross Complaint. On 3/26/03, the Court denied the County's Motion to File a Cross-Complaint and Motion for Preliminary Injunction and Stay. On its own motion, the Court stayed the current Superior Court action pending resolution of the underlying PERB matter. On 1/3/05, the Court dismissed the case.

California School Employees Association v. Lucia Mar Unified School District, Student Transportation of America, Inc., et al Docket No. 03-O-0339. San Luis Obispo County Superior Court Case CV 030250. (PERB Decision No. 1440, Unfair Practice Charge No. LA-CE-4194-E). Issue: PERB is conducting a compliance hearing regarding Decision No. 1440. CSEA also filed this complaint in the Court for Declaratory Relief on Written Contract. PERB is not a party to the action. On 2/3/04, the Court granted Student Transportation's Motion for Summary Judgment and modified STA's contract with the District to terminate on 7/24/05.

Coachella Valley Mosquito & Vector Control District v. Public Employment Relations Board/California School Employees Association Docket No. 03-O-0340. Fourth District Court of Appeal, Division Two, Case E033577 (Unfair Practice Charge No. LA-CE-65-M). Issue: Does PERB have jurisdiction over violations of the MMBA occurring more than six months prior to the filing of the charge and within the three-year statute of limitations set forth in Code of Civil Procedures section 338? Petition for Writ of Mandate and Request for Stay of Proceedings filed on 4/24/03. On 8/5/03, the Court issued its Peremptory Writ of Mandate commanding PERB to vacate its 4/11/03 order denying Petitioner's motion to stay proceedings of PERB Case No. LA-CE-65-M and to prepare a new Order granting the motion to stay the PERB proceedings pending a decision in the 4th DCA, Division 2 Case No. E031527. PERB filed its Return to Peremptory Writ of Mandate on 8/21/03, which included a copy of the Order Granting Motion to Stay that PERB issued in the underlying unfair practice case on 6/9/03.

Coachella Valley Mosquito & Vector Control District v. PERB/California School Employees Association Docket No. 02-O-0347, California Supreme Court, Case No. S122060 (Appealing Case E031527) (Unfair Practice Charge No. LA-CE-1-M). Issue: Did the appellate court err when it determined that PERB did not have jurisdiction over unfair practices under the MMBA which occurred more than six months prior to the filing of the charge and within a 3-year statutory limitation period as per Code of Civil Procedures section 338? Petition for Review filed by PERB on 1/16/04. On 3/30/04, the Court granted the Petition for Review. On 6/9/05, Court issued its decision finding the statue of limitations to be six months.

Fresno Irrigation District v. Public Employment Relations Board / Fresno Irrigation District Employees Association Docket No. 04-O-0349, Fifth District Court of Appeal, Case No. F044698 (PERB Decision No. 1565-M, Unfair Practice Charge No. SA-CE-29-M). Issue: Did PERB err when it decided that the District had violated the Association's right of access to District facilities for its meetings? Verified Petition for Writ of Review filed by District on 1/14/04. On 9/15/04, Court issued its Decision reversing the Board Decision.

B. Benedict Waters v. Tammy Samsel & Robert Thompson Ninth District Court of Appeal, U.S.D.C. Northern District Case C-02-4589 EDL, Docket No. 04-O-0350. Issue: Plaintiff alleges that his civil due process rights, guaranteed by the US Constitution, were violated in his dealings with the PERB employees named as Defendants. On 2/11/04 notice from Attorney General's Office that Petitioner's brief is due 3/16/04 and Respondent's brief is due 4/15/04. On 9/21/04, Court entered a Judgment affirming the District Court dismissal.

Richard T. Abbate et al. v. Santa Clara County, Santa Clara County CPOA et al. Docket No. 04-A-0351, Superior Court of Santa Clara County Case Number 1-03-CV-003038, Unfair Practice Charge No. SF-CO-47-M. Santa Clara County Correctional Peace Officer Association requested PERB file a amicus brief in the case which alleges in part a violation of the Duty of Fair Representation by the Association. On 5/10/04, SCCCPOA filed a letter requesting PERB's appearance in the June 8, 2004 hearing on SCCCPOA's motion to dismiss and First Amended Complaint For Declaratory Relief to Determine Validity for Elections of Directors. On 7/21/04, the Court granted the plaintiffs' request for dismissal.

Marcin Gruszecki et al. v. Santa Clara County, Santa Clara County CPOA et al. Docket No. 04-O 0352, Superior Court of Santa Clara County, Case Number 1-04-CV018778, Unfair Practice Charge No. SF-CO-47-M. Santa Clara County Correctional Peace Officer Association requested PERB file a amicus brief in the case which alleges in part a violation of the Duty of Fair Representation by the Association. On 5/10/04, SCCCPOA filed a letter to request PERB's appearance at a 5/24/04 hearing on plaintiff's request for a preliminary injunction and PERB's appearance at the 6/8/04, hearing on SCCCPOA's motion to dismiss.

Sacramento Municipal Utility District v. PERB Docket No. 04-O 0353, Superior Court of Sacramento County, Case Number 04SC00864, Unfair Practice Charge No. SA-CE-137-M. SMUD sought a Writ of Administrative Mandamus and Stay to review ALJ's refusal to dismiss complaint and stay the administrative hearing scheduled for July 27, 2004. On 7/2/04, SMUD filed its Petition for Writ. On 7/30/04, the Court dismissed the Writ.

Fresno County Office of Education v. Public Employment Relations Board, Court of Appeal Fifth Appellate District Case Number FO463266, Docket No. 04-352 (PERB Decision No.1674, Unfair Practice Nos. SA-CE-2004-E & 2005-E) Issue: Did PERB err in finding the County Office of Education violated the EERA. On 9/17/04, County Office of Education filed Petition for Writ of Extraordinary Relief.

The Regents of University of California v. Public Employment Relations Board Court of Appeal First Appellate District Case No. A108001 Docket No. 04-357 (PERB Decision No. 1689-H, Unfair Practice Charge No. SF-CE-611-H) Issue: Did PERB err in finding the University violated the HEERA. On 10/15/04, Petition for Review filed.

California Association of Professional Scientists v. Governor Arnold Schwarzengger, State DPA, Docket No. 05-360, Superior Court for the State of California County of Sacramento Case Number 04CS01446 (Unfair Practice No. SA-CE-1468-S) Issue: PERB seeks dismissal of a complaint alleging a violation of a PERB enforced statute based on preemption. On 10/27/04, CAPS filed its Petition in Sacramento Superior Court. On 3/22/05, PERB filed its Complaint in Intervention & Memorandum of Points and Authorities and Application for Leave to Intervene with the Sacramento Superior Court. On 3/30/05, the Court denied PERB's intervention and dismissed the complaint.

California Association of Professional Scientists v. Governor Arnold Schwarzengger, State DPA, Docket No.05-363, California Court of Appeal 3rd District, Case No. C049928 (Unfair Practice No. SA-CE-1468-S). Issue: Did the Superior Court err in denying PERB's application for intervention. On 5/25/05 PERB filed a Notice of Appeal.

Siskiyou County Employees Association, Local 3899 of the American Federation of State, County and Municipal Employees v. County of Siskiyou, Docket No. 05-361, Superior Court of the State of California for the County of Siskiyou Case No. SV CV PT 05-0050 (Unfair Practice No. SA-CE-314-M) Issue: PERB seeks dismissal of a complaint alleging a violation of a PERB enforced statute based on preemption. On 4/7/05, PERB filed its Complaint in intervention.

Service Employees International Union Local 790, AFL-CIO v. County of San Joaquin, Docket No. 05-362, Superior Court San Joaquin County, Case No. CV026530 (Unfair Practice No. SA-CE-330-M). Issue: PERB seeks dismissal of a complaint alleging a violation of a PERB enforced statute based on preemption. On 6/30/05, PERB filed application for intervention.

Alameda County Medical Center v. Hospital and Health Care Workers County of Alameda Superior Court, Case No. RG 04-172347, (Unfair Practice Charge No. SF-CO-56-M.) On 8/25/04, Complaint for Injunctive Relief filed by Medical Center with the Court. On 8/27/04, Order Denying Plaintiff's Application for Temporary Restraining Order.

Andrew Jeffers v. Public Employment Relations Board et.al. Docket No. 04-353, Court of Appeal, First Appellate District Case Number A107722, (PERB Decision No, 1675-M, Unfair Practice Charge No. SF-CO-23-M.) Issue: Did PERB err in dismissing Mr. Jeffer's allegations that his exclusive representative violated the MMBA. On 9/17/04, Jeffers filed Civil Writ. On 1/12/05, Court Denied Petition of Writ of Review.

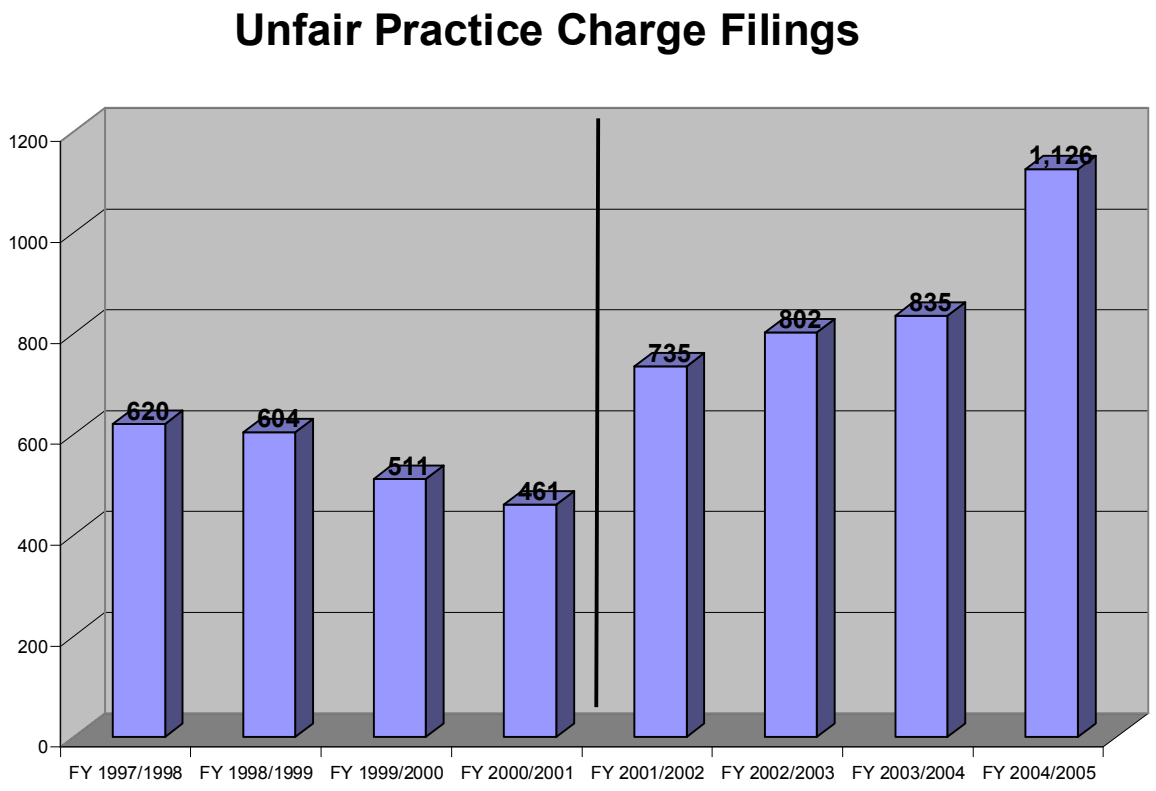
State of California, Department of Veterans Affairs v. Public Employment Relations Board et al. Court of Appeal Third Appellate District Case No. Docket No. 04-354 (PERB Decision No. 1686-S, Unfair Practice Charge No. SF-CE-220-S. On 10/7/04, State of California, Dept. of Veterans Affairs filed for Petition to Request Immediate Stay. On 3/10/05, Court denied Petition.

James Eric Ferguson v. Public Employment Relations Board Court of Alameda Department 31 Case No RG04186166 Docket No. 04-355 (PERB Decision No. 1645, Unfair Practice Charge No. SF-CE-2364-E) On 10/7/04, Request for Administrative Record. On 11/19/04, Ferguson filed Petition for Writ & Memorandum of Points and Authorities without service on PERB. On 1/10/05, Ferguson served PERB with the Petition and Notice of Hearing and Proposed Order. On 5/16/05, the Court dismissed the Petition.

International Association of Fire Fighters Local 188, AFL-CIO v. Public Employment Relations Board & City of Richmond Court of Appeal First Appellate District Case No. A108875 Docket No. 05-364 (PERB Decision No. 1720-M, Unfair Practice Charge No. SF-CE- 157-M). On 1/12/05, Firefighters filed a Petition for Writ of Mandate & Memorandum of Points and Authorities. On 1/28/05, Court Denied Writ of Mandate.

B. Benedict Waters v. Robert Thompson & Selma Inan United States District Court Northern District of California Case No. 4857 MJJ Issue: Plaintiff alleges that his civil due process rights, guaranteed by the US Constitution, were violated in his dealings with the PERB employees named as Defendants. On 3/9/05, PERB received a copy of the Summons and Complaint. On 4/28/05 the Complaint was dismissed.

Union of American Physicians and Dentists v. California Department of Corrections et al. Sacramento Superior Court No. 05CS00555 (Unfair Practice Charge No. SF-CE-228-S). On 5/5/05, UAPD filed its Writ of Mandate. On 5/31/05, Department of Personnel Administration filed its Notice of Removal of Action in the U.S. District Court, Eastern District. On 6/15/05 PERB filed an Application to Intervene and Application for Order Shortening Time.



Note: Vertical line illustrates when MMBA jurisdiction took effect (July 1, 2001).