PUBLIC EMPLOYMENT RELATIONS BOARD

ANNUAL REPORT

to the LEGISLATURE

1979

THE
PUBLIC EMPLOYMENT RELATIONS BOARD

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INTRODUCTION

The 1979 Annual Report of the Public Employment Relations Board (PERB) contains information on all three collective negotiation laws administered by PERB. These laws apply to approximately 730,000 employees. Included are 1,170 public school employers, the State of California, the Regents of the University of California, the Trustees of the California State University and College system and the Directors of Hastings College of the Law.

The Educational Employment Relations Act (EERA) has been in effect since April of 1976, the State Employer-Employee Relations Act (SEERA) has been in effect since July of 1978, and the Higher Education Employer-Employee Relations Act (HEERA) has been in effect since July of 1979.

BOARD ADMINISTRATION

LEGISLATIVE ENACTMENTS

In 1979 the Legislature made the following revisions, deletions, and additions to the three Employer-Employee Relations Acts administered by PERB:

Assembly Bill 1537 (Authored by Assemblyman Michael Gage) became Chapter 1008 of the Statutes of 1979. This bill contains provisions which affect SEERA.

(1) Any bona fide association, which is not the exclusive representative, may not have as one of its purposes the representation of employees in their employer-employee relations with the state if the members are to authorize dues deductions.

(2) Additional provisions of law may be superseded by the memorandum of understanding: a) provisions relating to the regulation and accumulation of employee vacation credits and sick leave credit on an hourly basis for certain employees, b) the crediting of prior service for purposes of layoff or sick leave where continuity of employment is broken for 6 months or longer by a permanent separation, and c) could delete from those provisions specified to be superseded certain provisions relating to the Public Employees' Medical and Hospital Care Act.

(3) Requires that a reasonable number of employee representatives of recognized employee organizations be granted time off when formally meeting and conferring with representatives of the state on matters within the scope of representation.

(4) Specifies that the state employer, for purposes of meeting and conferring on matters relating to supervisory employer-employee relations, is the Governor or his designated representatives.

Assembly Bill 1607 (Authored by Assemblyman Howard Berman) became Chapter 1072 of the Statutes of 1979. The bill took effect as an emergency statute on September 28, 1979. This law makes modifications to HEERA specifically and also to general provisions which apply to all of the laws administered by the Board.

(1) Upon the receipt of a PERB order joining in a request for judicial review of a Board representation decision, a party to a case may petition for a writ of extraordinary relief from the unit determination decision or order.

(2) Any party aggrieved by a final decision or order of the Board in an unfair practice case may petition the courts for extraordinary relief from the decision in addition to seeking judicial review.

(3) Any petition for extraordinary relief shall be filed in the district court of appeal in the district where the dispute occurred. The petition must be filed within 30 days after the issuance of the final order of the Board.

(4) Findings of the Board on questions of fact and ultimate facts shall be conclusive for purposes of judicial review if supported by substantial evidence.

(5) The Board, once the period to file for extraordinary relief has expired, may seek enforcement of its orders or decisions in a district court of appeal. If the court finds that compliance with the Board's order and procedures was refused, the court must issue the writ of mandamus.

(6) The only provisions of a memorandum of understanding in higher education employer-employee relations which shall not supersede specified provisions of law without corrective or budgetary action by the Legislature are those provisions which require the expenditure of funds. Such provisions shall not become effective unless approved by the Legislature in the annual budget act.

(7) The memorandum of understanding in higher education employer-employee relations shall be controlling over provisions related to upward mobility of employees in the California State University and Colleges. Provisions of law concerning retirement, Medical and Hospital Care Act, California Postsecondary Education Commission, the Report On Personnel by the Trustees of the California State University and Colleges to the Legislature and the utilization of nonpublic information by certain employees and contractors for pecuniary gain shall not be superseded by the memorandum of understanding.

(8) Deletes a reference to the Public Employees Retirement System from a provision of HEERA causing year-to-year employment of persons whose age is over the mandatory retirement age.

Senate Bill 130 (authored by Senator Ralph Dills) became Chapter 98 of the Statutes of 1979. The bill took effect on June 6, 1979, as an emergency statute. The provisions of the law apply to State employer-employee relations and include the following:

(1) requires that SEERA not be construed to limit the entitlements of state civil service employees, including those designated as managerial and confidential, provided by the state civil service laws.

(2) prohibits managerial and confidential employees from holding elective office in an employee organization which also represents state employees covered by the SEERA.

(3) modifies the definition of state employee contained in section 3526 to exclude employees of the California Maritime Academy, confidential employees, and managerial employees.

(4) provides career credits to full-time exempt employees upon the completion of specified service requirements with the state.

BOARD OPERATIONS

The Board is composed of three members appointed by the Governor subject to confirmation by the Senate. During this reporting period, Harry Gluck served as Chairperson; Dr. Raymond Gonzales completed the third year of his five-year appointment; Barbara Moore was appointed to the Board on March 19, 1979 to succeed Jerilou Cossack Twohey whose term expired.

During 1979, the Board issued 20 decisions regarding representation issues, one of which involved the placement of approximately 4000 job classifications and 150,000 employees under SEERA (see page 36), and 13 decisions regarding unfair practice cases. A digest of these Board cases begins on page 7.

In addition to its caseload of appeals filed as the result of proposed decisions in representation and unfair practice cases, the Board also rules on administrative appeals, requests for injunctive relief, and requests for judicial review. In 1979, the Board issued 30 decisions covering administrative appeals, 1 decision on requests for judicial review, and 3 decisions on requests for injunctive relief. In calendar year 1979, the Board itself issued a total of 67 decisions of various kinds.

As in all preceding years the Board operated within its budget. For the 1978-79 fiscal year, the Board expended approximately $2.71 million in the administration of the Educational Employment Relations Act and the determination of bargaining units for the State Employer-Employee Relations Act. The determination of units for Higher Education Employer-Employee Relations Act will begin in the 1979-80 fiscal year. This, together with the on-going function of administering the EERA and one-time SEERA and HEERA election costs, has resulted in a $4.11 million budget for PERB in 1979-80.

CASE DIGEST

REPRESENTATION CASES

As of December 31, 1979, the Board itself issued decisions in 20 representation cases. The following is a digest of the representation decisions issued by the Board itself:

I. Unit Determination

A. Appropriate Unit Placement

1. State Civil Service Employees--Proper Placement

SEERA Unit Determination (11/7/79)
S-R-1 - 56S; PERB Decision No. 110-S

The Board found 20 units appropriate for representation purposes. They are:

1. Administrative, financial, and staff services unit
2. Attorney and hearing officer unit
3. Education and library unit
4. Office and allied unit
5. Highway Patrol unit
6. Corrections unit
7. Protective services unit
8. Firefighter unit
9. Professional engineer unit
10. Professional scientific unit
11. Engineering and scientific technicians unit
12. Craft and maintenance unit
13. Stationary engineer unit
14. Printing trades unit
15. Custodial and services unit
16. Physician, dentist, and podiatrist unit
17. Registered nurse unit
18. Psychiatric technician unit
19. Health and social service/professional unit
20. Nonprofessional medical and social service support unit

Employees were placed in units based on an internal and occupational community of interest; the effect such units will have on meet and confer relationships and on the efficient operations of the employer.

2. Certificated--Substitutes

a. Oakland Unified School District (9/20/79) SF-R-200x; PERB Decision No. 102

A majority of the board found, for different reasons, that a separate unit of substitute teachers is not an appropriate unit under the EERA.

b. Jefferson Union High School District, (1/9/79) SF-R-550; PERB Decision No. 84 . (Consolidated wih Palo Alto on appeal.)

Palo Alto Unified School District, (1/9/79) SF-R-497; PERB Decision No. 84. (Consolidated with Jefferson on appeal.)

Substitute teachers are "employees" within the meaning of section 3540.1 because 1) substitutes as a class are an essential part of instructional programs, and 2) substitutes (not being tenured) especially need the protection given to "employees" by the Act.

The Peralta presumption (interpreting section 3534(b)) that substitutes should be in a unit with all classroom teachers will apply prospectively. This presumption will not, however, apply retrospectively when it would cause disruption to units in those districts which presently exclude substitutes as in this case. Accordingly, a unit composed of all substitutes in the District is appropriate. Only substitutes working at least 10 percent of the school days in the district can vote in the representation election. (Palo Alto: H.O. Proposed Decision, SF-R-497 (9/7/77).) (Jefferson: H.O. Proposed Decision, SF-R-550 (9/7/77).)

3. Certificated--Summer School

Redwood City Elementary School District (10/23/79), SF-R-122; PERB Decision No. 107

The Board construes, in the interest of justice, the petition for recognition as one for unit modification and finds inclusion of summer school teachers in the existing certificated unit to be appropriate based on community of interest.

4. Classified/Certificated--Supervisory

Franklin-McKinley School District (10/26/79) SF-R-604 A&B; PERB Decision No. 108

In a per curiam decision, the board adopted the hearing officer's findings that:

Separate units of classified supervisory employees and certificated supervisory employees are appropriate; however, a combined unit of classified and certificated supervisory employees would not be appropriate, due to lack of community of interest (3545(6)(3)).

Small size (four members) did not make it inappropriate because (1) the lack of community of interest between classified and certificated employees made a wall-to-wall unit inappropriate and (2) the small unit would not cause inefficient district operations.

Principals who presently sit on the negotiating team and the manager of maintenance and operations are confidential employees (3540.1(c)) hence excluded from the unit. The business office supervisor is not a confidential employee, therefore is not excluded from the unit. The administrative assistant, the director of instruction, the director of special services, and the coordinator of bilingual education are supervisory employees.

5. Classified Employees--Presumptively Appropriate Units

Compton Unified School District (10/26/79)
LA-R-310; 311; 350; 718; PERB Decision No. 109

Sweetwater's (EERA Decision No. 4) presumptively appropriate units are preferred. A variant unit will not be awarded unless it is more appropriate than the Sweetwater unit based on a separate and distinct community of interest among employees in the variant unit or other section 3545(a) criteria. Therefore, a petition to sever crafts employees from an existing operations support unit is denied, and the hearing officer's decision finding a separate crafts unit inappropriate is affirmed. Also affirmed is the hearing officer's findings that head custodians are supervisors because they possess at least three indicia of supervisory status.

6. Certificated--Management/Supervisory Unit Clarification

Berkeley Unified School District (8/28/79)
SF-UC-32; PERB Decision No. 101

A joint petition for unit clarification was filed with the PERB to determine the management or supervisory status of the 1) women's studies director/title IX coordinator, department chairperson, head teacher, dean, teacher director, grade coordinator and head counselor. After evaluating each of the positions in question, the board concludes that the women's studies director/title IX coordinator is a management position, and that the remaining positions are supervisory. They are all, therefore, excluded from the certificated unit.

7. Certificated--Permit Teachers and Children Center Supervisor

Gilroy Unified School District (7/20/79)
SF-UC-30; PERB Decision No. 98

The board affirms the hearing officer's proposed decision wherein it was concluded that permit teachers and the children's center "supervisor" are certificated employees and, based on the number of employees involved in this case,

should be included in the unit with the other certificated teachers of the district.

8. Certificated--Counselors, Psychologists, Nurses, Speech Therapists and Reading Specialists

Arcadia Unified School District (5/17/79) LA-R-278; LA-UC-17; PERB Decision No. 93
Under the circumstances in this case, a majority of the Board found that a unit modification petition is not an appropriate means of asserting a claim of representation in the face of an outstanding request for recognition.

APSSA filed a request to represent counselors, psychologists, nurses, speech therapists, and reading specialists.

The exclusive representative of a unit of teachers subsequently filed a unit modification petition which sought to add the same classes to their existing unit. The petition was jointly filed with the employer, but not within the statutory limitation of 15 days for an organization to file a competing petition. Further, the organization representing the teachers had not requested the sought-after positions when it filed its original petition to represent the teachers.

The board affirms the hearing officer's finding that a unit consisting of counselors, psychologists, nurses, speech therapists and reading specialists is appropriate within the meaning of section 3545(a).

The classifications in dispute share a community of interest among themselves and the majority of employees appear to support the petitioning organization. In addition, the board finds that the proposed unit would not impair the district's efficiency of operations.

9. Certificated--Part-Time and Summer School Teachers

Rio Hondo Community College District, (1/25/79) LA-R-111; PERB Decision No. 87

Part-time and summer school teachers are included in a unit with regular community college teachers because of their community of interest and the lack of an adverse effect on efficiency of operations. Supports rationale in new precedential decision Hartnell Community College District, PERB Decision No. 81. Approves substance of Hearing Officer's decision. [H.O. Proposed Decision, LA-R-111 (11/2/77)]

10. Certificated--Division Chairpersons and Adult Education Teachers

Glendale Community College District, (1/30/79) LA-R-748; PERB Decision No. 88

Division Chairpersons, other than the chairperson of Allied Health, were found not to be supervisory employees within the Act because: (1) they were selected by, and responsible to, the faculty, not the Administration; (2) the faculty alone is empowered to remove chairpersons prior to the expiration of their five-year term; (3) no persuasive evidence exists that chairpersons enjoy special status and prerogatives. Adult education teachers are included in the bargaining unit because they share a sufficient community of interest with the other full- and part-time teachers. Cases which excluded adult education teachers from elementary and high school units (e.g., Petaluma) are distinguished because the regular teachers taught adolescents, not adults, and the adult education programs were completely separate from and auxillary to the regular educational program. [H.O. Proposed Decision, LA-R-748 (12/8/77)]

11. Certificated--Adult Education Teachers

San Jose Unified School District, (2/14/79) SF-R-536; PERB Decision No. 90

Hourly adult education teachers are an appropriate unit because of their community of interest. [H.O. Proposed Decision SF-R-536 (2/14/70)]

12. Certificated--Part-Time Instructors and Department Chairpersons

Hartnell Community College District, (1/2/79) SF-R-312; PERB Decision No. 81 (Overrules Los Rios).

The Los Rios [(6/9/77) EERB Decision No. 18] policy that part-time employees who have taught three of the last six semesters should be included in the negotiating unit is overruled. In Hartnell, the similarities in community of interest between the 191 part-time and the 113 full-time community college teachers (qualifications, training, job functions) outweigh the differences (compensation, extracurricular responsibilities) therefore the appropriate unit includes all full- and part-time faculty.

Departmental chairpersons are supervisory employees, not management employees, within the Act, in spite of the stipulation by the District and the Association that the employees weren't supervisory. The Board will no longer accept stipulations contrary to the express language of the EERA which affect the ultimate conclusion of law before the Board. [H.O. Proposed Decision, SF-R-312 (7/15/77).]

II. Confidential-Secretaries

Dinuba Public Schools, (4/2/79) S-R-171; PERB Decision No. 91.

The five secretaries to the building principals are not confidential employees because: 1) The negotiations proposal they learned of was not in the regular course of their duties; 2) the grievances that they viewed were not confidential; and 3) the management position memos on negotiations they filed did not constitute "access" to such materials. To allow each principal's secretary to become confidential because of their filing duties would destroy the "small nucleus concept." (Affirms the substance of H.O. Proposed Decision, S-R-171 (6/13/78).)

III. Separate Employers

Paso Robles Union School District, (1/9/79)

LA-R-130; LA-R-703; PERB Decision No. 85 (consolidated with San Rafael on appeal).

San Rafael City High School District, (1/9/79) SF-R-0355; PERB Decision No. 85 (consolidated with Paso Robles on appeal).

Districts with separate economic status (funds are not commingled) and separate policy-making authority are separate employers within the Act, even though the districts use many of the same staff, facilities and equipment. [Paso Robles Proposed H.O. Decision, LA-R-130, LA-R-703 (12/1/77) is affirmed. San Rafael Proposed H.O. Decision SF-R-355 (11/25/77) is reversed.]

IV. Organizational Security

San Ramon Valley USD; SEIU, Local 390 (11/20/79) SF-OS-19; PERB Decision No. 111

The Board finds: (1) that confusion over the scheduling of an in-service training session for bus drivers, who would be on vacation on the day of an organizational security election, and the subsequent failure of district's agent, who had caused the confusion by his silence, to clarify the situation demonstrated a lack of good faith bargaining in violation of section 3543.5(c); (2) that by cancelling the election day training session at the "eleventh hour" and by stating that "he did not want to pay employees to vote" the district's agent violated section 3543.5(a) and (b). Election results ordered set aside and a new election conducted. [H.O. reversed.]

UNFAIR PRACTICE CASES

As of December 31, 1979, the Board itself issued 13 decisions regarding unfair practice charges. The following is a digest of the unfair practice decisions issued by the Board itself:

A. Santa Monica Community College District (9/21/79) LA-CE-41, CE-57; PERB Decision No. 103

3543.5(a), (b), (c), (d)

The board found that the Santa Monica Community College District violated the EERA by (1) discriminatorily denying a salary increase unless the employee organization waived negotiation rights guaranteed by statute, and (2) refusing to furnish information necessary for the Santa Monica College Unified Faculty Association to represent its members.

B. Department of Health, (1/31/79)
LA-CE-1-S; PERB Decision No. 86-S-A

3522.3; 3522.8

Under SEERA, PERB does not have jurisdiction to consider an unfair practice charge filed by a supervisor. The Board upheld the dismissal of the charge, but overruled the Hearing Officer and granted leave to amend based upon:

1. An allegation of an irregularity in the PERB process, and

2. The facts were unclear as to whether nonsupervisory employees had suffered a detrimental effect.

C. Palos Verdes Peninsula Unified School District, (7/16/79)
LA-CE-122; PERB Decision No. 96 (consolidated with Pleasant Valley on appeal).

Pleasant Valley School District (7/16/79)
LA-CE-160; PERB Decision No. 96 (consolidated with Palos Verdes on appeal).

The issues before the board were:

1. Palos Verdes Peninsula USD:

   a. May a party file exceptions to a decision in which the unfair practice charge filed against them has been dismissed?

   b. Are beginning and ending dates of certificated service, vacation and holidays, and extra hour assignments within scope?

2. Pleasant Valley SD:

a. Are beginning and ending dates of school within scope?

b. Did the employer waive its right to file exceptions for failure to raise operational necessity issue?

The board found:

Palos Verdes Peninsula USD has standing to file exceptions under former regulation 35030 and on the basis that the "hearing officer's findings are adverse to the [district] and have the practical effect of requiring the district to negotiate over matters which the hearing officer found to be within scope and which the [district] had contended were not in scope."

Pleasant Valley SD waived the right to argue operational necessity since they filed exceptions to the hearing officer's finding only as to scope issues. Under former regulation 35031(c) and section 32300(c) of the Board's current regulations, "an exception not specifically urged shall be waived."

School calendar is a mandatory subject of negotiations. While the issue of work distribution may have an effect on educational program, and minimal effect on public policy, such effects do not outweigh interests of certified staff. Thus, while a district may take unilateral action to comply with statutory guidelines concerning funding requirements, it is obligated to bargain with the exclusive representative concerning dates of beginning and ending of certified service, vacations, holidays, and extra hour assignments, since they relate to hours of employment.

D. Antelope Valley Community College District (7/18/79) LA-CO-28, LA-CE-110; PERB Decision No. 97

1. 3543.5(a), (d)

Under the facts in this case the board finds the district liable for the unlawful actions of its designated managerial, confidential, and supervisory employees when they interfered with

the employees' rights to self-organization and encouraged them to withdraw support from one organization in preference to another.

2. 3543.6(a)

A charge filed by AVCCD against CSEA alleging that CSEA was attempting to force the district to grant recognition involuntarily is dismissed as unreasonable.

E. Richmond Unified School District (8/1/79) SF-CE-22
Simi Valley Unified School District (8/1/79) LA-CE-48
PERB Decision No. 99

3543.5(b)
3543.1(b)

Board defines "other means of communication" to include district mail systems. Reasonable regulation thereof includes "time, place and manner of the activity without impinging on the content unless it presents a substantial threat to peaceful school operations."

The district's regulations, which included evaluating contents of original documents sent through mail system, are unreasonable and therefore constitute an unfair practice. (H.O. affirmed in Richmond, H.O. reversed in Simi Valley.)

F. Sacramento City Unified School District (8/14/79)
S-CE-121; PERB Decision No. 100

3543.5(a)
3543.5(c)

District unilaterally adopted emergency regulations regarding leaves, an item within scope.

A prima facie case is stated when the District denies personal necessity leave to all employees who were absent on a day when some employees concededly participated in a work stoppage. Case remanded to general counsel for hearing or settlement. (H.O. reversed)

G. Santa Clara Unified School District (9/26/79)
SF-CE-13; PERB Decision No. 104

3543.5(a)

After remand to hearing officer to resolve credibility questions, and the issuance of a supplemental proposed hearing officer's decision, the Board finds:

1. District's withdrawal of an offer for a permanent teaching position to a substitute teacher was based on the employee's organizational involvement (asking for assistance from the organization) and constituted a violation of section 3543.5(a). [H.O. reversed.]

2. District's response to an employee's refusal "to accede to the new preparation schedule, (i.e., that [employee] would be required to punch a time clock or have his pay docked), was a legitimate response to threatened insubordination." "[I]nsubordinate conduct of an employee which threatens the employer's ability to maintain order and enforce legitimate rules and policies loses any protected status which may otherwise have attached." Also, observations by district of employee's teaching techniques was not unfair in view of employee's threatened insubordination. [H.O. affirmed.]

3. The district did not fail to meet and consult on the changes in and adoption of teaching schedule. The change was found to have been made in response to academic concerns, not union animus.

H. Fresno Unified School District, (1/4/79) S-CE-23; PERB Decision No. 82

3540.1(k)

Charge dismissed for lack of jurisdiction because private independently run bus company which carries school children is not a public school employer within the Act. None of the criteria necessary to prove agency (related operations, common management, common ownership) are satisfied by the facts in this case. NLRB precedent that private school bus employees are public employees is irrelevant to PERB's jurisdiction. [H.O. Proposed Decision, S-CE-23; (12/21/77)].

I. San Mateo County Community College District (6/8/79) SF-CE-224, 245; PERB Decision No. 94

3543.5(c)

Unilateral action by district decreasing salary by 6.25 percent and freezing salary step increments of classified employees in anticipation of decrease in monies after passage of Proposition 13 is an unfair practice. Exclusive representative's "preference to wait a reasonable amount of time to secure the information needed for actual negotiations" did not constitute a waiver of its rights to negotiate re salary decrease and annual increment freeze after an invitation to negotiate by the district.

The exclusive representative waived its right to negotiate regarding policy of involuntary leaves without pay resulting from district's intended cancellation of summer school. Exclusive representative had notice of district's exercise of managerial prerogative to cancel summer school and agreed closing would have consequences for employees in district who would not be needed over summer. Burden rested on exclusive representative to demand negotiations over effects of cancellation once district had extended invitation to negotiate.

J. San Francisco Community College District (10/12/79) SF-CE-201; PERB Decision No. 105

3543.5(a), (b), (c)

Board finds unilateral action by district, after passage of Proposition 13, cancelling summer school, postponing sabbaticals, eliminating overtime, and instituting a salary and hiring freeze to violate sections 3543.5(a), (b) and (c). In finding concurrent violations of sections 3543.5(b) and (c), the Board holds: "[W]e disapprove of the logic expressed in Placerville Union School District (9/18/78) PERB Decision No. 69, in which the Board unanimously found it unnecessary to find a section 3543.5(b) violation in addition to a section 3543.5(c) violation when such a finding would not afford the charging party additional relief. . . ."

K. Jules Kimmett v. SEIU, Local 99 (LA CCD) (10/19/79) LA-CO-27, 31, 32, 33, 34; PERB Decision No. 106

3544.9; 3543.6(b)

Following federal precedent, the Board finds that certain internal union activities are subject to the duty of fair representation. However, "only such activities that have a substantial impact on the relationships of unit members to their employers are subject to that duty." In the instant case, the scheduling of organizational meetings and the election of a representative to the negotiating team are found not to have a sufficiently substantial impact on employees' relationship with their employer as to give rise to the duty of fair representation. The organization's handling of its monthly financial report at its monthly meetings is not violative of section 3546.5 requirements. [H.O. affirmed.]

L. Carlsbad Unified School District, (01/30/79)
LA-CE-61; PERB Decision No. 89

3543.5(a), (b)

Overrules San Dieguito's requirement that intent is always necessary to prove a 3543.5(a) violation. If the harm to the employee's organizational rights outweighs the employer's operational necessity, a violation will be found, even in the absence of unlawful intent. If the complained of conduct is caused by an unlawful intent, it is a per se 3543.5(a) violation. The District's transfer of Federation activists, but not the transfer of a Federation member, was found to be a 3543.5(a) violation. The six-month limitation in section 3541.5(a) did not run because the transfers were a continuing violation. No derivative 3543.5(b) violation was found. [H.O. Proposed Decision, LA-CE-61 (10/21/77) is affirmed in part and reversed in part.]

M. Harvey Arnold Neilman v. Baldwin Park Unified School District (4/4/79)
LA-CE-367; PERB Decision No. 92

3543.5(a)

PERB is prohibited from enforcing negotiated agreements unless the facts alleged constitute an independent violation of the EERA. Even if the assignments given Neilman and other North Park

teachers were discriminatory, they are not demonstrably or inferentially related to the exercise by the teachers of any rights granted by the EERA. The facts further failed to establish that any relationship existed between the employees' response to the grievance and the exercise by Neilman of any rights granted to him by the EERA.

Where charging party appeals a dismissal by a Hearing Officer to the Board instead of amending charge to specify which section of EERA has been violated, the Board will search the facts in the charge to determine any apparent violations of the Act.

GENERAL COUNSEL

UNFAIR PRACTICE PROCEDURES - EERA, SEERA AND HEERA

Unfair practice procedures are generally similar for charges filed under EERA, SEERA and HEERA.

An employer, an employee organization or an employee, may file a charge alleging an unfair practice. Upon receipt, the charge is docketed, assigned a case number and screened to see that it states a prima facie case. A copy is served on the party alleged to have committed the unlawful act. The respondent then files an answer to the charge.

If it is determined that the charge fails to state a prima facie case, the charging party is informed of the determination. If the charge is neither amended nor withdrawn, the General Counsel may dismiss the charge. The charging party has a right to appeal the dismissal to the Board.

When an answer to the charge has been received, a hearing officer calls the parties together for an informal conference. At this time, efforts are made to settle the matter by mutual agreement. At the informal conference, the parties are free to discuss the case in confidence with the Board agent.

If it becomes apparent that voluntary settlement is unlikely, a formal hearing is scheduled. A formal hearing may be held at a PERB regional office or in the local community.

At the hearing, the hearing officer rules on motions, takes sworn testimony and receives other evidence. The hearing officer then studies the record, considers the applicable law and issues a proposed decision.

Hearing officers' proposed decisions are made in accordance with precedential Board decisions. In the absence of a Board decision on the same or similar facts, the hearing officer will decide the issue(s) applying such other legal precedent as is available.

After receipt of the proposed decision, any party to the proceeding may file a Statement of Exceptions with the Board itself and submit briefs in support thereof. This method provides any party with the opportunity to appeal the proposed decision before it would otherwise become effective. The Board, after reviewing the record, may affirm the decision, modify in full or in part, reverse or send the matter back to the hearing officer for receipt of additional testimony and evidence. At any time during the above process, the Board may elect to transfer a case from the hearing officer to itself.

Hearing officers' proposed decisions become final decisions of the Board if not appealed and are binding on the parties to the particular case.

An important distinction exists between hearing officer decisions and decisions of the Board itself. Board decisions are precedential and bind not only the parties to that particular case, but also serve as precedent for similar issues until modified or reversed by the Board itself. They are appropriately cited as precedent. Hearing officers' decisions bind only the parties to that particular case and are not precedential.

UNFAIR PRACTICE SUMMARY - EERA

In 1979, 962 unfair practice charges were filed. Of these, 740 were voluntarily settled prior to hearing. During the calendar year, hearing officers issued 53 dismissals prior to hearing and 34 proposed decisions after hearing. A graph of the unfair practice charges filed during 1979 is found in the appendices, page 57.

In addition to this, Board agents were extremely active in working with the parties in informal conferences, attempting to work out mutually acceptable solutions to the problems giving rise to the charges. In the vast majority of cases, this resulted in withdrawal of the charge by settlement.

UNFAIR PRACTICE SUMMARY - SEERA

During 1979, 16 unfair practice charges were filed. Eleven of the charges were settled voluntarily prior to hearing. Three additional charges were dismissed with no appeal taken. Two additional charges were dismissed by the hearing officer, and the dismissals were appealed to the Board. Three charges have been temporarily placed in abeyance at the request of the parties; one hearing officer proposed decision was issued and two are being drafted. A graph of the unfair practice charges filed during 1979 is found in the appendices, page 57.

UNFAIR PRACTICE SUMMARY - HEERA

Since the implementation of HEERA on July 1, 1979, 15 unfair practice charges have been filed. One was voluntarily settled prior to hearing. Five have been scheduled for formal hearing. In addition, three hearings have been held and hearing officer proposed decisions are being drafted.

LITIGATION

The PERB is represented in litigation by the General Counsel's office. The Board may be involved in at least six types of court proceedings:

(1) judicial review of a unit determination decision;

(2) court enforcement of Board decisions or subpoenas;

(3) review of a final Board order in an unfair practice case;

(4) injunctive relief;

(5) attempt to block the Board's processes; and

(6) the Board may file amicus curiae briefs in litigation which affects either its jurisdiction or public sector labor relations generally.

Requests for Injunctive Relief

In San Diego Teachers Assn. v. Superior Court of San Diego County (1979) 24 Cal.3d 1, the California Supreme Court found that PERB has exclusive initial jurisdiction over public school employee strikes, which may be unfair practices under EERA. The Court limited the effect of the ruling "[t]o injunctions against strikes by public school employee organizations recognized or certified as exclusive representatives." The issue of illegality of strikes by public employees was specifically not addressed by the Court.

As a result of the San Diego case, the Board held extensive public hearings leading to the adoption of rules which govern the filing of requests for injunctive relief. These rules provide for a compressed investigative timeline in recognition of the nature of the rights and interests which are involved. As might be expected, this newly defined jurisdiction involves a substantial additional workload for the Board.

A Board decision to seek injunctive relief related to a specific unfair practice charge is based on an evaluation of: (1) the likelihood that the charge would prevail when heard, and (2) the potential for irreparable harm should the injunctive relief not be sought. A list of requests for injunctive relief filed during 1979 is found in the appendices, page 52. Thirty-seven requests for injunctive relief (35 under EERA and 2 under HEERA) were filed in 1979.

Seven requests involved work stoppages in five different school districts. The Board recognizes that, in some instances, work stoppages by public school employees and lockouts by public school employers can be inimical to the public interest and inconsistent with those provisions of the EERA requiring the parties to participate in good faith in the impasse procedures. As a result, a rule was enacted which provides a process by which the Board can respond quickly to injunctive relief requests involving work stoppages or lockouts. Upon the filing of a request, the General Counsel conducts an investigative proceeding into the circumstances of the alleged lockout or work stoppage. The General Counsel must report the results of this investigation to the Board within 48 hours following a filing so that the Board itself may act upon the injunctive relief request as soon as possible.

The Board, through the informal settlement conference procedure, assisted the parties in one of the cases to resolve the work stoppage and thus negated the need to seek injunctive relief. In all but one of the remaining work stoppage situations, the Board granted the request and successfully obtained injunctive relief. In the seventh instance, the parties were able to resolve the work stoppage after the Board filed a petition for injunctive relief but prior to the matter being heard by the Court.

The remainder of the requests for injunctive relief involved circumstances other than work stoppages. These were dealt with by the Board as follows:

(1) The Board granted one request and, after notice to the parties of the Board's decision, the parties settled without the need to seek a restraining order.

(2) The Board, in many cases, helped the parties to reach a mutually acceptable solution and thus did not need to consider the merits of seeking injunctive relief.

(3) The remainder were denied when the Board, after careful investigation, determined that the facts did not provide grounds for seeking injunctive relief.

Judicial Review of Representation Decisions

EERA, SEERA and HEERA prohibit judicial review of a unit determination decision unless the Board concurs. During 1979

the Board received one request, but did not agree to judicial review of the decision.

Judicial Review and Enforcement of Unfair Practice Decisions

An unfair practice case may result in court proceedings in two ways. First, if a party disagrees with a final Board decision in an unfair practice case, they may file within 30 days for an extraordinary writ in a District Court of Appeal to overturn the decision. Second, if a party does not comply with a final Board decision, the General Counsel will petition the Superior Court or District Court of Appeal for enforcement.

Two unfair practice decisions resulted in litigation being initiated in 1979. One additional case was argued in a District Court of Appeal as the result of an appeal from a Superior Court judgment which upheld a Board decision issued in a previous year.

(1) Antelope Valley Community College District v. CSEA, Chapter 374, CSEA, Chapter 374 v. Antelope Valley Community College District (7/18/79) PERB Decision No. 97. In this decision, the Board found the District liable for the unlawful actions of its designees when they interfered with the employees' rights to self-organization and encouraged them to withdraw support from one organization in preference to

another. As part of its order the Board required posting of an appropriate notice of its ruling and a statement of compliance, by the District, plus mailing a copy of the order and notice to each classified employee.

Suit was filed by PERB in the Los Angeles Superior Court for enforcement of the Board's order. On December 4, 1979, the Court granted a writ of mandamus to enforce PERB's order.

(2) Santa Monica (Santa Monica College Part-time Faculty Assn. v. Santa Monica Community College District; Santa Monica College Faculty Assn. (9/21/79) PERB Decision No. 103. In this decision, the Board found that the District had committed an unfair practice by granting salary increases to full-time teachers, but not to part-timers. The Board ordered back pay with interest.

The District has filed suit to overturn this decision. The case has been transferred from the Los Angeles Superior Court to the District Court of Appeal and the parties are awaiting notice of briefing schedules from the court.

(3) Sonoma County Organization of Public Employees v. Sonoma County Office of Education (9/23/77) EERB Decision No. 40. The county board of education appealed to a District

Court of Appeal from a superior court judgment upholding the EERB decision. The case is under submission to the appellate court.

Attempts to Block the Board's Processes

Three cases of this type were active in 1979.

(1) Gordon F. Brown v. Charles Cole, et al., 2 Civ. 55727. This case, which was filed by an employee of Pasadena City College, challenged the Board's election ballot wording and attempted to block an election. It was argued in a District Court of Appeal after a superior court had dismissed the plaintiff's suit. The District Court of Appeal sustained the superior court's dismissal.

(2) Barbara Bissell, United Teachers of Oakland, Local 771 v. PERB; Oakland Unified School District; Oakland Education Assn., 3 Civ. 18826. The United Teachers of Oakland, Local 771 filed a petition for writ of mandamus to set aside PERB Order No. Ad-48. In that decision, the Board affirmed regional director's finding that a non-exclusive representative has no standing to file objections to an organizational security election.

On July 23, 1979, the court denied the petition, and the matter is now on appeal before the District Court of Appeal.

(3) The California Attorney General and the Pacific Legal Foundation each filed a petition for the issuance of a writ of mandamus in the Third District Court of Appeal against the PERB, the Governor, the Controller and the State Personnel Board. They seek a judgment that the State Employer-Employee Relations Act be declared unconstitutional and an order directing the Respondents to cease the implementation of the Act. The petition is based on a claim that all authority for compensation and personnel matters of State civil service employees is vested by the state constitution in the State Personnel Board and that the Legislature, by statute, cannot subject such matters to collective bargaining.

The case has been argued and submitted to the court for decision.

(4) CSEA, et al v. PERB, 1 Civil No. 47864, Division 3. The California School Employees Association sought to obtain a Writ of Mandate on September 20, 1979 from the California Supreme Court ordering the PERB to issue final decisions in three cases to which CSEA was a party, ahead of other decisions pending on the Board's docket. The Supreme Court remanded the petition to the Court of Appeal, First Appellate District.

REGIONAL OFFICES

EDUCATIONAL EMPLOYMENT RELATIONS ACT (EERA)

Elections

As a result of elections conducted by PERB and voluntary recognition by school districts, approximately 88-90% of the 450,000 school employees in the State have exercised their right to be represented by an exclusive representative in negotiations on matters set forth in the EERA. During 1979, PERB conducted 122 elections of various kinds covering approximately 40,200 employees. A listing of the elections conducted in 1979 is found in the appendices, page 46.

There were 44 elections conducted by PERB during 1979 to determine which exclusive representative, if any, would represent the employees of a particular negotiating unit.

In addition, there were 47 decertification elections. Of these, 30 resulted in the retention of the incumbent organization; 2 resulted in the selection of no representation, and 15 resulted in the selection of another employee organization as the exclusive representative.

Organizational security provisions negotiated between the employer and the exclusive representative required 31 elections to be run by PERB in 1979. Of these elections, 28 resulted in

ratification of the organizational security provision and three resulted in rejection of the organizational security provision.

Representation Procedures

When the parties seek to establish a new unit or to modify an existing unit, a petition must be filed with the PERB regional office. A Board agent then investigates the request to ensure compliance with the Act and Board policies. In disputed cases, the Board's staff frequently were able to help the parties resolve their differences, thus precluding the necessity of a time-consuming formal hearing.

During 1979, 75 requests for recognition, and 122 petitions for unit modifications were received and processed. There were 14 proposed decisions issued which dealt with representation issues.

Mediation/Factfinding

The EERA provides for both mediation and factfinding, if necessary, to assist those parties who may have reached an impasse in their attempt to negotiate an agreement on wages, hours, and terms and conditions of employment. A request for mediation is sent to the appropriate PERB regional office and a Board agent investigates to ascertain that the parties are truly at the point where assistance from a third party would be helpful.

If it is determined that impasse exists, the case is referred to the State Mediation and Conciliation Service for assignment of a mediator. If the matter is not resolved in mediation, the dispute can proceed to factfinding if the mediator certifies that factfinding is appropriate. The Board maintains a list of qualified factfinders.

The process of assisting the parties to reach negotiated agreement through mediation, or factfinding when necessary, has continued to be productive. In 1979, PERB received a total of 563 requests for mediation. Of these, 28 were withdrawn by the parties and 85 (only 15 percent) proceeded to factfinding.

Public Notice Complaints

The EERA provides that the public be informed about the issues being negotiated and also be afforded the opportunity to express its views on the issues to the school employer.

PERB regulations provide the public with a mechanism to allege a violation of this section of the EERA. A Board agent is assigned to investigate each complaint. Every effort is made to gain voluntary compliance and to resolve the complaint without the necessity for a formal hearing. To date, the staff has been successful with this approach. A total of 14 public notice complaints have been filed with PERB. Of these, only one proceeded to a formal hearing.

STATE EMPLOYER-EMPLOYEE RELATIONS ACT (SEERA)

In the early months of 1979, PERB hearing officers held a series of sub-hearings structured to provide the data needed to determine appropriate bargaining units. These hearings resulted in approximately 30 thousand pages of testimony and thousands more pages of exhibits which were submitted to the Board itself for a decision. On November 7, 1979, PERB Decision No. 110-S, Unit Determination for the State of California was issued. This placed approximately 145,000 state employees in over 4,000 classifications into 20 bargaining units.

SEERA UNITS

	Approximate Number of Employees		Approximate Number of Classes
Unit 1	31600	Administrative, Financial, and Staff Services	1184
Unit 2	1950	Attorney and Hearing Officer	95
Unit 3	2450	Education and Library	369
Unit 4	36800	Office and Allied	210
Unit 5	5000	Highway Patrol	9
Unit 6	8050	Corrections	58
Unit 7	5750	Protective Services and Public Safety	270
Unit 8	3950	Firefighter	28
Unit 9	6100	Professional Engineer	325
Unit 10	1400	Professional Scientific	253
Unit 11	2900	Engineering and Scientific Technicians	194

SEERA UNITS

	Approximate Number of Employees		Approximate Number of Classes
Unit 12	12900	Craft and Maintenance	479
Unit 13	500	Stationary Engineer	19
Unit 14	950	Printing Trades	75
Unit 15	7400	Custodial and Services	89
Unit 16	1200	Physician, Dentist, and Podiatrist	70
Unit 17	2050	Registered Nurse	38
Unit 18	8150	Psychiatric Technician	15
Unit 19	3550	Health and Social Services/Professional	161
Unit 20	2700	Nonprofessional Medical and Social Service Support	56
Total	145,350		1002

As provided for under the Board's rules, the parties filed Requests for Reconsideration and for Judicial Review of the unit determination decision. The Board ruled on these requests in January of 1980.

Shortly after the SEERA Decision was issued, the Sacramento Regional Office began receiving requests to conduct elections in the units found to be appropriate. To date, twenty-eight requests have been filed. There is at least one in each of the units found to be appropriate. Elections are anticipated in most, if not all, of these units in the spring and/or fall of 1980.

HIGHER EDUCATION EMPLOYER-EMPLOYEE RELATIONS ACT (HEERA)

On July 1, 1979 the Higher Education Employer-Employee Relations Act (HEERA) became effective. The Los Angeles Regional Office was designated to handle representation matters affecting California State University and Colleges (CSUC) and the San Francisco Regional Office was designated to handle representation matters affecting the University of California (UC) and Hastings College of the Law.

To date the Los Angeles Regional Office has received seven requests for recognition, and three petitions for certification covering approximately 27,000 employees in the CSUC system. Of these, the largest request was for a proposed unit of approximately 20,000 systemwide academic and professional employees. Several requests and petitions overlap and there have also been interventions filed on the requests. The bulk of the requests and petitions for non-academic employees are for systemwide units generally made up of crafts and maintenance classifications. There has also been a request filed for a statewide unit of peace officers.

During the same period the San Francisco Regional Office has received twelve requests for recognition, and twenty-four petitions for certification for employees of the University of California. No requests have been filed for Hastings College of the Law. The petitions and requests filed cover a broad

range of non-academic employees such as service employees, building trades and crafts, health care employees, police officers, firefighters, technicians and scientific and engineering employees.

Hearings to determine the appropriateness of the proposed units will be scheduled in early 1980. Once appropriate units have been designated, PERB will conduct elections among the employees in each unit to determine which employee organization, if any, will become the exclusive representative.

A P P E N D I X

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List of Abbreviations Used in Election Log 43

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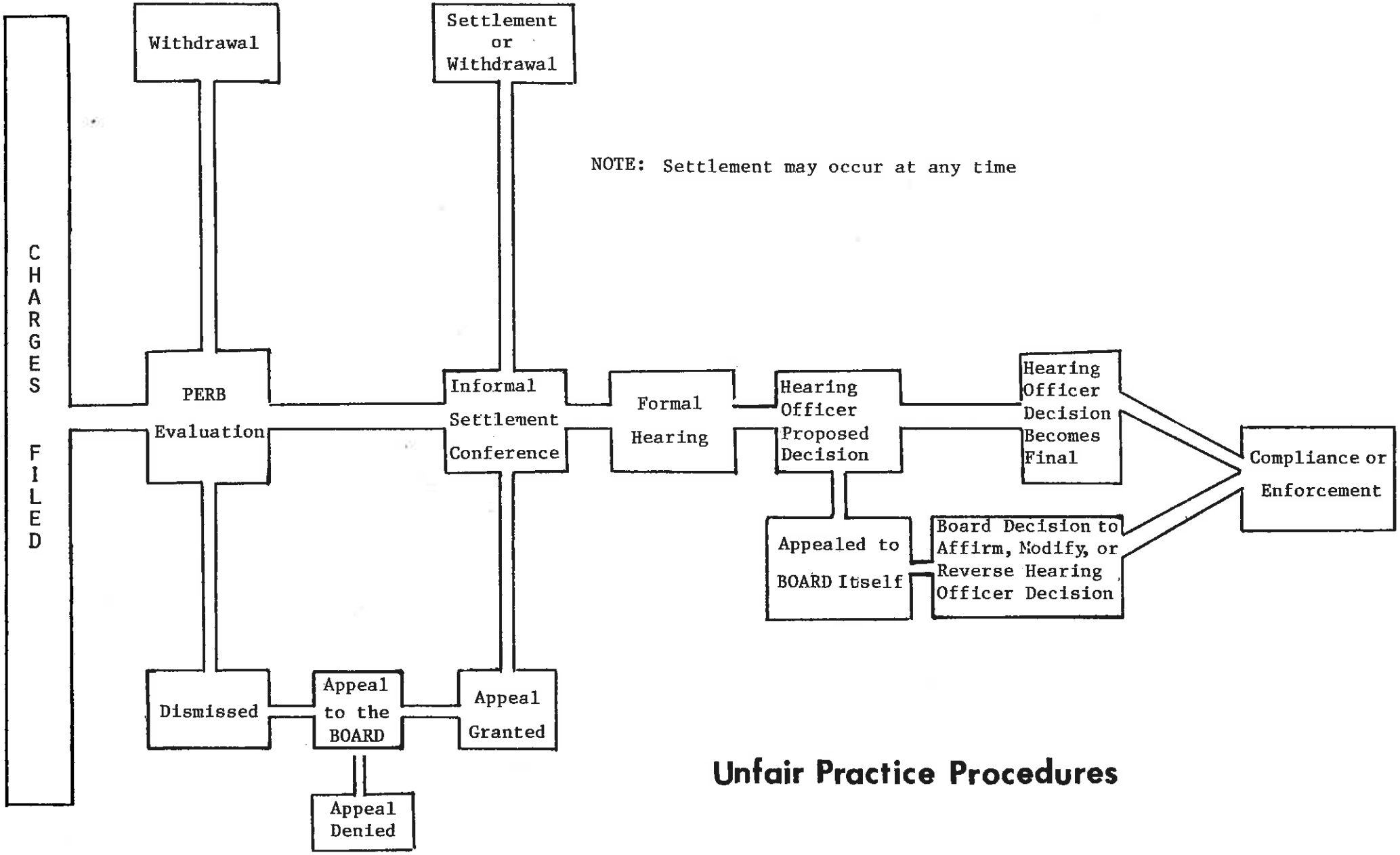
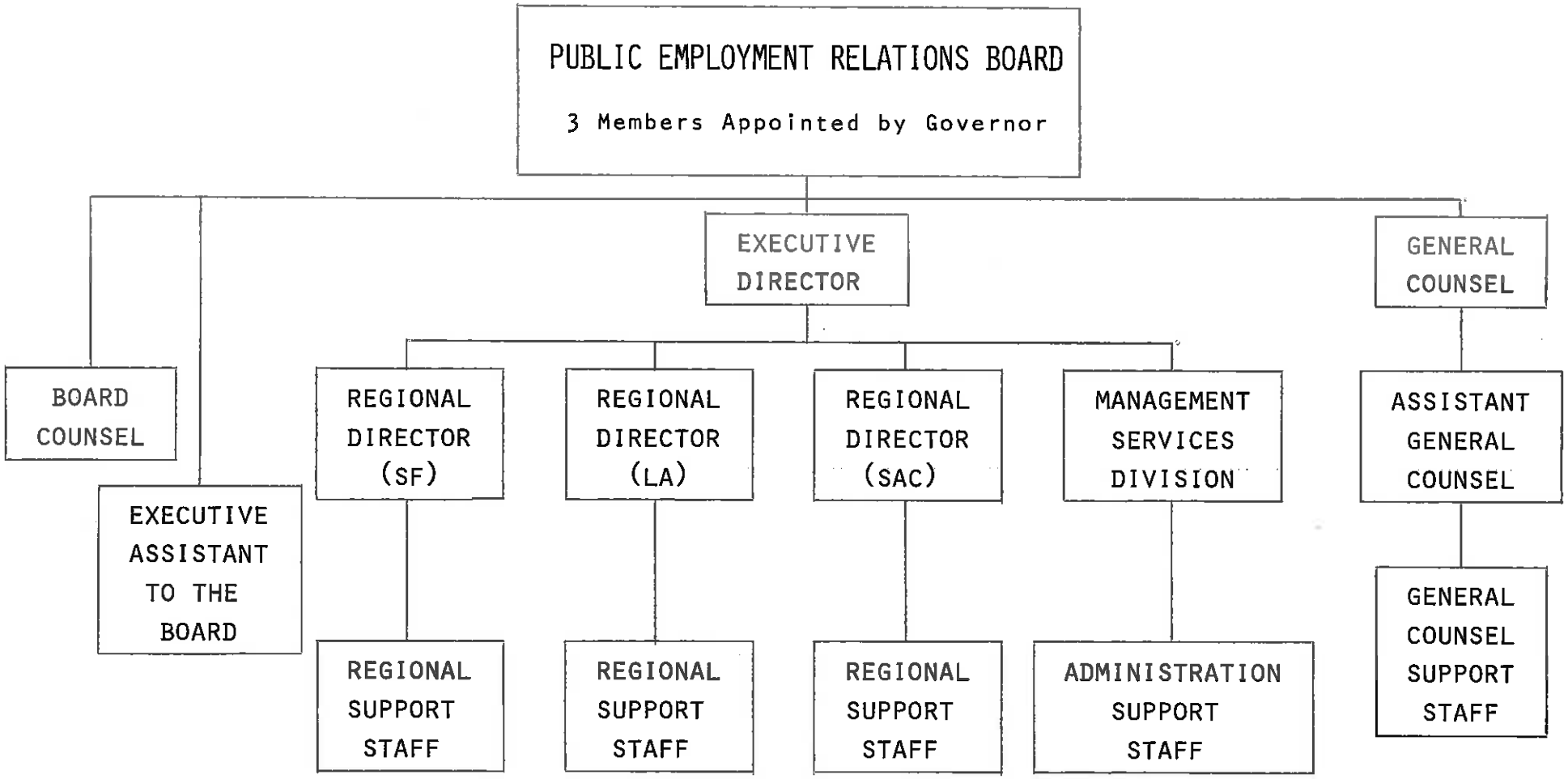
Unfair Practice Caseload Graph 57



Unfair Practice Procedures


PUBLIC EMPLOYMENT RELATIONS BOARD
3 Members Appointed by Governor
BOARD COUNSEL
EXECUTIVE ASSISTANT TO THE BOARD
EXECUTIVE DIRECTOR
GENERAL COUNSEL
REGIONAL DIRECTOR (SF)
REGIONAL DIRECTOR (LA)
REGIONAL DIRECTOR (SAC)
MANAGEMENT SERVICES DIVISION
ASSISTANT GENERAL COUNSEL
REGIONAL SUPPORT STAFF
REGIONAL SUPPORT STAFF
REGIONAL SUPPORT STAFF
ADMINISTRATION SUPPORT STAFF
GENERAL COUNSEL SUPPORT STAFF

LIST OF ABBREVIATIONS USED IN ELECTION LOG

ACE	ASSOCIATION OF CLASSIFIED EMPLOYEES
ACT	ASSOCIATED CHAFFEY TEACHERS, CTA
ACT	ASSOCIATED CHINO TEACHERS, CTA
AEOE	ASSOCIATION OF EDUCATIONAL OFFICE EMPLOYEES
AFSCME	AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES
AFT	AMERICAN FEDERATION OF TEACHERS
ASTA	ANAHEIM SECONDARY TEACHERS ASSOCIATION
ATASPAEA	ADULT TEACHERS ASSOCIATION SECTION, PALO ALTO EDUCATORS ASSOCIATION, CTA
BCEA	BUTTE COLLEGE EDUCATION ASSOCIATION, CTA
BCFA	BARSTOW COLLEGE FACULTY ASSOCIATION, CTA
BCFA	BUTTE COLLEGE FACULTY ASSOCIATION, AFT
BD	BOARD DIRECTED
CA	CONSENT AGREEMENT
CCD	COMMUNITY COLLEGE DISTRICT
CEA	CLASSIFIED EMPLOYEES ASSOCIATION
CFO	COAST FACULTY ORGANIZATION
CFT	CHINO FEDERATION OF TEACHERS, AFT
COE	COUNTY OFFICE OF EDUCATION
CSEA	CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION
CTA	CALIFORNIA TEACHERS ASSOCIATION
D	DECERTIFICATION
ESD	ELEMENTARY SCHOOL DISTRICT
GCEA	GLENDALE COLLEGE EDUCATION ASSOCIATION, CTA
GCG	GLENDALE COLLEGE GUILD, AFT
GFT	GALT FEDERATION OF TEACHERS, AFT

GFT	GILROY FEDERATION OF TEACHERS, AFT
GHSCEA	GALT HIGH SCHOOL CLASSIFIED EMPLOYEES ASSOCIATION
GTA	GILROY TEACHERS ASSOCIATION, CTA
HCCFA	HARTNELL COMMUNITY COLLEGE FACULTY ASSOCIATION, CTA
HSD	HIGH SCHOOL DISTRICT
LA	LOS ANGELES
LEA	LOMPOC EDUCATION ASSOCIATION, CTA
LFT	LOMPOC FEDERATION OF TEACHERS, AFT
MDEA	MT. DIABLO EDUCATION ASSSOCIATION, CTA
MDFT	MT. DIABLO FEDERATION OF TEACHERS, AFT
MSDCE	MILLBRAE SCHOOL DISTRICT CLASSIFIED EMPLOYEES
N-MEA	NEWPORT-MESA EDUCATION ASSOCIATION, CTA
N-MFT	NEWPORT-MESA FEDERATION OF TEACHERS, AFT
NMCFT	NO. MONTEREY COUNTY FEDERATION OF TEACHERS, AFT
NMCTA	NO. MONTEREY COUNTY TEACHERS ASSOCIATION, CTA
OEA	OAKLAND EDUCATION ASSOCIATION, CTA
OFT	OJAI FEDERATION OF TEACHERS, AFT
OS	ORGANIZATIONAL SECURITY
OVEA	OCEAN VIEW EDUCATORS ASSOCIATION, CTA
OVFT	OCEAN VIEW FEDERATION OF TEACHERS, AFT
OVTA	OJAI VALLEY TEACHERS ASSOCIATION, CTA
PDTA	PERALTA DISTRICT TEACHERS ASSOCIATION, CTA
PEU	PUBLIC EMPLOYEES UNION
PFT	PERALTA FEDERATION OF TEACHERS, AFT
PRFT	PASO ROBLES FEDERATION OF TEACHERS, AFT
PRTA	PASO ROBLES TEACHERS ASSOCIATION, CTA
R	REPRESENTATION (Case #)
RAEA	RIALTO ADULT EDUCATION ASSOCIATION, CTA

RCU	RETAIL CLERKS UNION, LOCAL 137
RDD	REGIONAL DIRECTOR DIRECTED
RHFA	RIO HONDO FACULTY ASSOCIATION, CTA
S	SACRAMENTO
SBFT	SANTA BARBARA FEDERATION OF TEACHERS, AFT
SBTA	SANTA BARBARA TEACHERS ASSOCIATION, CTA
SCOETA	SACRAMENTO COUNTY OFFICE OF EDUCATION TEACHERS ASSOCIATION, CTA
SECEA	SHASTA ELEMENTARY CLASSSIFIED EMPLOYEES ASSOCIATION
SEIU	SERVICE EMPLOYEES INTERNATIONAL UNION
SF	SAN FRANCISCO
SJFT	SAN JOSE FEDERATION OF TEACHERS, CTA
SRTA	SAN RAFAEL TEACHERS ASSOCIATION, CTA
SRTA	SANTA ROSA TEACHERS ASSOCIATION, CTA
STSPAEA	SUBSTITUTE TEACHERS SECTION, PALO ALTO EDUCATORS ASSOCIATION, CTA
SUFT	SELMA UNIFIED FEDERATION OF TEACHERS, AFT
SUTA	SELMA UNIFIED TEACHERS ASSOCIATION, CTA
TEAM	TEAMSTERS
UFO	UNITED FACULTY OF OHLONE
UM	UNIT MODIFICATION
US	UNITED SUBSTITUTES
USD	UNIFIED SCHOOL DISTRICT
UTO	UNITED TEACHERS OF OAKLAND, AFT
UnSD	UNION SCHOOL DISTRICT
WFT	WEAVER FEDERATION OF TEACHERS, AFT
WSBCFT	WEST SAN BERNARDINO COLLEGE FEDERATION OF TEACHERS, AFT
WTA	WEAVER TEACHERS ASSOCIATION, CTA

PUBLIC EMPLOYMENT RELATIONS BOARD
ELECTIONS HELD - 1979

1979 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
10/10	SF-R-004B	D-50	Acalanes UnHSD	CL	0060	0046	SEIU-30	CSEA-15			001		RDD
05/31	SF-R-114A	OS-53	Alameda COE	CL		0060		YES-39	NO-21				CA
05/31	SF-R-114B	OS-54	Alameda COE	CL		0057		YES-35	NO-22				CA
06/05	SF-R-377B		Alum Rock UnESD	CL	0275	0201	Team-120	CSEA-75		005	001	005	CA
08/28	LA-R-094C		Anaheim UnHSD	C	0031	0019	ASTA-18			001			RDD
09/27	LA-R-222B		Anaheim UnHSD	CL	0346	0199	AFSCME-179	CSEA-20		099		001	CA
06/13	LA-R-613	D-28	Apple Valley ESD	CL	0097	0049	CSEA-30	N/A		019			RDD
03/22	LA-R-837		Barstow CCD	C	0065	0039	BCFA-31			008		001	CA
06/12	SF-R-380B		Berryessa UnSD	CL	0126	0086	Team-57	CSEA-19		006	004	001	CA
01/10	LA-R-123	OS-15	Burbank USD	C	0685	0546		YES-268	NO-269			009	CA
06/13	S-R-627	D-25,26	Butte CCD	C	0111	0103	BCEA-74	BCFA-27		001	001		RDD
05/18	SF-R-398	D-37	Cabrillo CCD	CL	0144	0102	SEIU-90	CSEA-8		004			RDD
5/22	LA-R-250B	D-35	Capistrano USD	CL	0046	0038	TEAM-21	CSEA-17					RDD
10/02	LA-R-067	D-23	Chaffey JtUnHSD	C	0683	0479	ACT-320	WSBCFT-153		006			RDD
05/24	LA-R-066	D-26	Chino USD	C	0593	0497	ACT-319	CFT-175		003			RDD
05/02	S-R-185	D-17	Clovis USD	CL	0266	0215	CSEA-113	SEIU-54		048			RDD
05/17	LA-R-794A		Coast CCD	C	0712	0573	AFT-402	CTA-82	CFO-40	048	001		CA
05/17	LA-R-794B		Coast CCD	C	1328	0778	CTA-394	AFT-229	CFO-50	085		020	CA
03/06	S-R-367	OS-10	Columbia ESD	C	0013	0013		YES-13	NO-0				CA
06/12	LA-R-247A	D-36	Cypress ESD	CL	0057	0051	AFSCME-27	CSEA-24					RDD
02/13	SF-R-425		Eureka City SD	CL	0250	0107	CSEA-57	Team-47		002	001		CA

1979 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
03/20	LA-R-585A		Fallbrook UnHSD	CL	0020	0015	No Rep.	CSEA-5		010			BD
03/20	LA-R-585B		Fallbrook UnHSD	CL	0020	0019	SEIU-17			002			BD
03/28	SF-R-379B		Fremont-Newark CCD	CL	0035	0033	SEIU-30	CSEA-3					RDD
06/13	SF-R-619		Fremont-Newark CCD	C	0292	0084	UFO-77	None		007			CA
05/01	S-R-37A	D-21	Fresno USD	CL	0427	0266	SEIU-166	CSEA-95		004	001	002	RDD
11/28	LA-R-342	OS-23	Fullerton JtUnHSD	CL	0445	0278		Yes-209	No-68		001	003	CA
04/26	S-R-237	D-20	Galt JtUnHSD	CL	0043	0031	GHSCEA-17	CSEA-10		004			RDD
04/26	S-R-359	D-19	Galt JtUnHSD	C	0043	0046	GFT-25			018	003		RDD
05/15	SF-R-215	D-38	Gilroy USD	C	0317	0317	GFT-161	GTA-147			009		RDD
05/16	SF-R-384	D-40	Gilroy USD	CL	0169	0148	CSEA-85	SEIU-55		001	007		RDD
06/06	LA-R-748		Glendale CCD	C	0430	0338	AFT-178	GCEA-101		057		002	RDD
12/12	LA-R-472	OS-24	Hacienda LaPuente USD	C	1280	0787		Yes-536	No-251				CA
02/07	S-R-213	OS-9	Hanford ESD	CL	0180	0116		YES-86	NO-30				CA
04/06	SF-R-312		Hartnell CCD	C	0262	0170	HCCFA-140	None		029	001	004	BD
03/08	LA-R-42A	D-22	Huntington Beach UHSD	CL	0142	0119	CSEA-60	SEIU-54		003	001	001	RDD[3]
05/17	SF-R-111A	D-36	Jefferson UnHSD	CL	0154	0126	AFT-80	CSEA-36		010			RDD
04/25	LA-R-735	D-17	Kern CCD	C	0364	0329	CTA-186	AFT-139		003		001	RDD
06/05	S-R-173	OS-12	Kingsburg JtUnSD	CL	0022	0014		YES-12	NO-2				CA
05/09	LA-R-034	OS-21	La Mesa Spring Valley	CL	0470	0279		Yes-173	No-106				CA
06/14	LA-R-038	D-25	Lompoc USD	C	0497	0478	LFT-293	LEA-173		003	001	008	RDD
02/28	LA-R-004A	D-21	Los Angeles CCD	CL	1255	0765	CSEA-426	SEIU-247		091	001		RDD
11/16	LA-R-004A	OS-22	Los Angeles CCD	CL	1173	0427		Yes-254	No-173			002	CA

1979 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
06/01	LA-R-001D		Los Angeles USD	CL	5100	2689		CSEA-1287	AEOE-923		451	028	CA[4]
10/13	S-R-498A	OS-13	Los Rios CCD	CL	0400	0207		YES-188	NO-19				CA
05/11	LA-R-457	D-19	Maricopa USD	CL	0030	0024	No Rep.	RCU-11		013			RDD
02/06	LA-R-457	D-19	Maricopa USD	CL	0030	0024	RCU-11			011	002		RDD[4]
02/21	SF-R-078A	OS-55	Martinez USD	CL	0075	0048		YES-38	NO-10				CA
05/23	SF-R-078B	D-34	Martinez USD	CL	0057	0054	CSEA-34	PEU-17		002	001		RDD
02/21	SF-R-078B	OS-56	Martinez USD	CL	0057	0044		YES-24	NO-20				CA
06/13	SF-R-417	D-45	Menlo Park City SD	CL	0051	0033	CSEA-17	AFSCME-14		001	001		RDD
01/04	SF-R-233	D-26	Millbrae ESD	CL	0089	0061	NO REP-45	MSDCE-1	CSEA-15	045			RDD
04/05	SF-R-383	OS-57	Milpitas USD	CL	0335	0163		YES-96	NO-66		001		CA
06/06	SF-R-581		Moreland ESD	CL	0070	0057	CSEA-38	SEIU-18		001			CA
05/08	SF-R-220	D-39	Mt. Diablo USD	C	2122	1713	MDEA-925	MDFT-754		034		003	RDD
12/19	SF-R-220	OS-72	Mt. Diablo USD	C		1266		YES-653	NO-613			001	CA
06/06	LA-R-325A	D-31	Mt. San Antonio CCD	CL	0217	0175	CSEA-119			056			RDD
06/06	LA-R-325B	D-24/34	Mt. San Antonio CCD	CL	0085	0074		AFSCME-22	CSEA-37	015			RDD[1]
07/31	LA-R-325B	D-24/34	Mt. San Antonio CCD	CL	0083	0065	CSEA-35	AFSCME-29			001		RDD
09/18	LA-R-674	UM-68	National City	CL	0009	0008		CSEA-3		005			RDD
05/31	LA-R-080	D-41	Newport-Mesa USD	C	1204	0952	N-MFT-532	N-MEA-411		005	001	003	RDD
12/11	SF-R-339	D-47	No Monterey Co USD	C	0259	0220		NMCFT-108	NMCTA-107	004	001		RDD[1]
10/18	LA-R-814		No. Orange CCD	C	0522	0413	CTA-219			193	001		CA
10/19	SF-R-200Y		Oakland USD	C	0108	0088	UTO-46	OEA-33		009		002	CA
05/30	SF-R-258C	OS-58	Oakland USD	CL	1044	0280		YES-242	NO-37		001		CA
04/05	SF-R-127B	D-31	Oakley UnSD	CL	0020	0020	PEU-20	AFSCME-0					RDD

1979 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
05/24	LA-R-276	D-30	Ocean View ESD	C	0100	0091	OVEA-56	OVFT-34		001			RDD
05/29	LA-R-282	D-33	Ojai USD	C	0146	0123	OFT-93	OVTA-30					RDD
03/16	SF-R-155B		Palo Alto USD	C	0078	0067	STSPAEA-59	None		006	002		RDD
11/21	SF-R-155X		Palo Alto USD	C	0085	0065	ATASPAEA-57	None		008		002	CA
09/26	LA-R-612A		Pasadena CCD	CL	0222	0154		CSEA-71		082	001	001	CA
05/09	LA-R-745		Pasadena CCD	C	0371	278	CTA-211			066		001	CA
04/05	LA-R-703		Paso Robles JtUnHSD	C	0047	0042	PRFT-36	PRTA-6					BD
04/05	LA-R-130		Paso Robles UnSD	C	0085	0082	PRTA-43	PRFT-37				002	BD
03/08	SF-R-501		Peralta CCD	C		0731	PFT-451	PDTA-279			001	001	RDD
03/28	SF-R-106A	D-30	Pittsburg USD	CL	0200	0135	CSEA-117	PEU-17		001			RDD
03/26	LA-R-180B		Rialto USD	C	0010	0009	RAEA-8			001			RDD
06/07	SF-R-037A	D-43	Richmond USD	CL	0239	0138	PEU-77	CSEA-50			011	002	RDD
12/13	SF-R-037A	OS-68	Richmond USD	CL	0232	0099		YES-68	NO-31				CA
12/13	SF-R-037B	OS-69	Richmond USD	CL	0525	0284		YES-211	NO-73			001	CA
12/13	SF-R-037C	OS-70	Richmond USD	CL	0266	0143		YES-85	NO-58				CA
12/13	SF-R-037D	OS-71	Richmond USD	CL		0012		YES-11	NO-1				CA
12/13	SF-R-055	OS-67	Richmond USD	C	1600	1053		YES-523	NO-529		001	001	CA[2]
05/29	LA-R-111		Rio Hondo CCD	C	0507	0332	RHFA-197			101	034		BD
06/21	LA-R-485B		Riverside CCD	C	0133	0100	CTA-51	AFT-48			001		CA
11/19	S-R-481A		Sacramento COE	CL	0117	0056	CSEA-49			007			CA
11/08	S-R-481B		Sacramento COE	CL	0070	0059	ACE-38	CSEA-17		002	002		CA
05/24	S-R-565		Sacramento COE	C	0185	0117	SCOETA-75			042		001	CA
09/19	LA-R-144	D-43	San Bernardino CCD	CL	0218	195	CSEA-123			071		001	RDD

1979 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
06/06	LA-R-173B	D-27	San Diego CCD	CL	0502	0373	CEA-195	SEIU-173		004		001	RDD
10/02	SF-R-068B	D-51	San Jose USD	CL	0393	0321	AFSCME-180	CSEA-128		006	007		RDD
11/20	SF-R-172A	OS-66	San Jose USD	C	1600	0529		YES-439	NO-90				CA
06/11	SF-R-536		San Jose USD	C	0730	0410	SJFT-314	None		096		002	RDD
01/25	SF-R-013B	D-28	San Rafael City SD	CL	0069	0044	CSEA-38	SEIU-2		004			RDD
03/20	SF-R-355		San Rafael City SD	C	0182	0172	SRTA-99	CTA-71		002			RDD
03/20	SF-R-618		San Rafael City SD	C	0173	0146	CTA-139	None		007			RDD
11/01	SF-R-029B	D-33	San Ramon Valley USD	CL	0110	0079	SEIU-41	CSEA-31		002	005	001	RDD
11/14	LA-R-262	D-40	Santa Barbara City SD	C	0905	0786	SBTA-546	SBFT-237		003		002	RDD
11/19	SF-R-022A	OS-63	Santa Clara USD	CL	0279	0005		YES-5	NO-0				CA
11/19	SF-R-022B	OS-64	Santa Clara USD	CL	0253	0084		YES-56	NO-28				CA
11/19	SF-R-022C	OS-65	Santa Clara USD	CL	0143	0053		YES-36	NO-17				CA
10/10	LA-R-029B	D-46	Santa Monica USD/CCD	CL	0240	0150	SEIU-86	CSEA-61		003			RDD
02/15	SF-R-188B		Santa Rosa City SD	C	0040	0008	SRTA-8	None					CA
09/18	S-R-064	D-24	Selma USD	C	0198	0166	SUTA-115	SUFT-48		003			RDD
03/05	S-R-669		Shasta UnESD	CL	0016	0014	SECEA-13	CSEA-0			001		RDD
02/08	LA-R-157	OS-19	Simi Valley USD	CL	0770	0235		Yes-86	No-149				CA
02/08	LA-R-278	OS-18	Simi Valley USD	C	1000	0611		YES-344	NO-266			001	CA
10/25	SF-R-482B	D-48	Solano COE	CL	0026	0026	CSEA-26	SEIU-0					RDD
08/31	S-R-186B	D-22	State Center CCD	CL	0066	0035	CSEA-33	SEIU-2					RDD
06/05	LA-R-696B	D-38	Sweetwater UHSD	CL	0187	0150	CSEA-106	SEIU-28		016			RDD
03/01	LA-R-817	OS-20	Sweetwater UHSD	CLS	0049	0034		Yes-28	No-6				CA
10/24	SF-R-420	OS-62	Travis USD	CL	0148	0103		YES-61	NO-42				CA

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02/27	S-R-007		Turlock JtUSD	CL	0041	0041	CSEA-21	SEIU-19			001		CA
02/27	S-R-007		Turlock JtUSD	CL	0036	0032	CSEA-27				003	002	CA
02/27	S-R-097		Turlock JtUSD	CL	0040	0039	CSEA-29	SEIU-9			001		CA
02/27	S-R-097		Turlock JtUSD	CL	0022	0018	CSEA-12				006		CA
02/27	S-R-097		Turlock JtUSD	CL	0075	0062	CSEA-57				005		CA
03/15	S-R-093	OS-11	Washington USD	C	0250	0211		YES-164	NO-47				CA
10/16	S-R-509	OS-14	Washington USD	CL	0205	0100		YES-88	NO-12				CA
05/09	S-R-333	D-18	Weaver UnESD	C	0037	0037	WTA-20	WFT-17					RDD
12/04	S-R-579	OS-16	Winters JtUSD	C	0050	0042		YES-32	NO-10				CA
12/18	S-R-513B		Yuba City USD	C	0048	0013	US-9			003	001		CA

1-Runoff Necessary
2-Objections Filed
3-Objections Filed and Withdrawn
4-Chal Determinative

REQUESTS FOR INJUNCTIVE RELIEF

	Case Name	No.	Allegation	Filed	Disposition
1.	COMPTON CC Fed. v. COMPTON CCD	LA-CE-448	Employer forcing employees to participate in altering evaluation process.	3-26-79	Charging party requested action be held in abeyance. Charge withdrawn 5-30-79.
2.	(SWEETWATER UHSD) STENVALL v. SWEETWATER ED. ASSOC.	LA-CO-78	Request to halt election.	4-16-79	On 4-17-79 charging party withdrew request and pursued unfair practice charge remedy.
3.	GONZALES UNION HSD v. GONZALES UNION HS TEACHERS ASSOC.	SF-M-296 LA-CO-85	Strike situation.	4-20-79	Settled.
4.	WESTMINISTER SD v. WESTMINISTER TA	LA-CO-69	Employer wants cease and desist order for future strikes and for sick-ins.	4-24-79	On 4-26-79 charging party withdrew request.
5.	CUPERTINO ED. ASSOC. v. CUPERTINO USD	SF-CE-362	Employer will not meet and negotiate on salary proposal presented in spring 1978.	4-30-79	PERB denied request on 5-11. The remedy at law is adequate.
6.	CHICO UTA v. CHICO USD	S-CE-238	Employer should reopen salary negotiations for 1978-79 school year. They are currently negotiating 1979-80.	5-2-79	PERB dismissed request 5-9.
7.	CHICO USD v. CHICO UTA	S-CO-37	Employees threatened strike and sick-in.	5-7-79	PERB denied IR for threat of sick-in; was prepared to go to court on strike; settled.
8.	VAL VERDE SD v. CSEA	LA-CO-80	Strike situation.	5-3-79	PERB obtained temporary restraining order in Court.

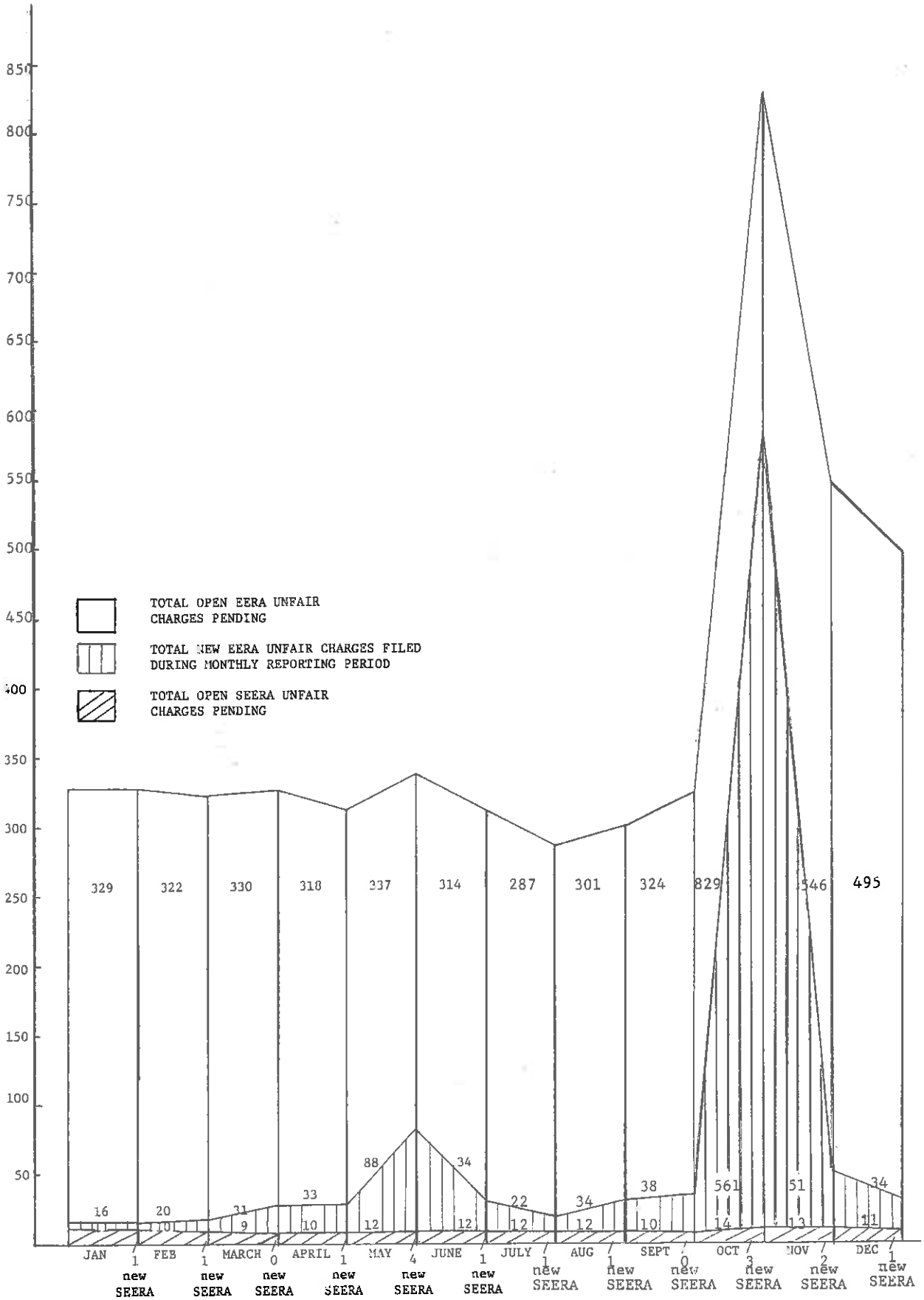
	Case Name	No.	Allegation	Filed	Disposition
9.	VAL VERDE SD v. CTA	LA-CO-81	Strike situation.	5-3-79	PERB obtained temporary restraining order in Court.
10.	CSEA v. VAL VERDE SD	LA-CE-468 LA-CE-471	Reprisals/punitive action by employer.	5-4-79	PERB obtained temporary restraining order in Court.
11.	CTA v. VAL VERDE SD	LA-CE-470	Reprisals/punitive action by employer.	5-4-79	PERB obtained temporary restraining order in Court.
12.	CSEA v. SAN JUAN USD	S-CE-247	Wants employer to set aside 8 percent to pay retroactive salary increase to be negotiated.	5-17-79	Parties settled and request withdrawn. Signed contract 6-5-79.
13.	WOODLAND ED. ASSOC. v. WOODLAND JT. USD	S-CE-251	Employer refused to take three grievances to adv. arbit.	5-18-79	PERB denied request. No irreparable harm shown.
14.	LAS VIRGINES SD v. CTA	LA-CO-86	Strike situation.	5-17-79	PERB obtained temporary restraining order 6-6-79.
15.	CSEA v. DEL PASO HEIGHTS SD	S-CE-262	Charging party wants employer to bargain in good faith and set aside agreed upon retroactive salary to 1-1-79.	6-1-79	PERB denied request. PERB does not have authority to enforce agreement.
16.	OROVILLE UHSD v. OROVILLE SECONDARY T.A.	S-CO-40	Strike situation.	6-5-79	Parties settled after PERB conferences and mediation by State Conciliation Services.
17.	CSEA v. PACHECO USD	S-CE-249	Charging party wants employer to set aside fund to pay 8 percent retroactive salary from 7-1-78.	6-8-79	PERB denied request. No basis for irreparable harm stated.

	Case Name	No.	Allegation	Filed	Disposition
18.	SAN LUIS COASTAL UNIFIED TEACHERS v. SAN LUIS COASTAL USD	LA-CE-491	Wants employer to set aside fund to pay retroactive salaries to be negotiated.	6-15-79	PERB denies request. No evidence of irreparable harm.
19.	CALISTOGA CTA v. CALISTOGA JT. USD	S-CE-376	Charging party wants to restrain employer from implementing pay plan until impasse and ratify contract.	6-19-79	Parties settled. Request withdrawn.
20.	CSEA v. TORRANCE USD	LA-CE-494	Employer takes unilateral action without negotiating effects of two week layoff.	6-22-79	PERB denied request. No irreparable harm shown.
21.	WILLIS, ET AL v. EL CENTRO ELEM. T.A.	LA-CO-90	Organization breached its duty of fair representation by refusing to allow nonunion members to vote on contract.	6-25-79	PERB denied request. Question of prima facie case. Remedy at law is adequate.
22.	CSEA v. MT. DIABLE USD	SF-CE-378	Wants employer to set aside $77,000 to pay retroactive salary increase to be negotiated.	6-29-79	PERB denied. Remedies at law adequate.
23.	CSEA v. FIREBAUGH-LAS DELTAS USD	S-CE-268	Five employees laid off as bus driver/custodians and employer refused to negotiate layoff.	7-3-79	PERB will seek injunction to prevent filling of new positions pending negotiations.
24.	UNIVERSITY OF CALIF. PHYSICIANS AND HOUSESTAFF v.	SF-CE-1-H	Payroll dues deduction eliminated 7-1-79. U.C. categorized them as students ineligible for HEEERA rights.	7-20-79	U.C. reinstated dues deductions 8-1-79. Settled.
25.	CSEA v. NORTH SACRAMENTO SD	S-CE-274	Employer refused to meet on layoffs: public notice argued.	8-15-79	PERB denied request; remedies of unfair practice charge are adequate.

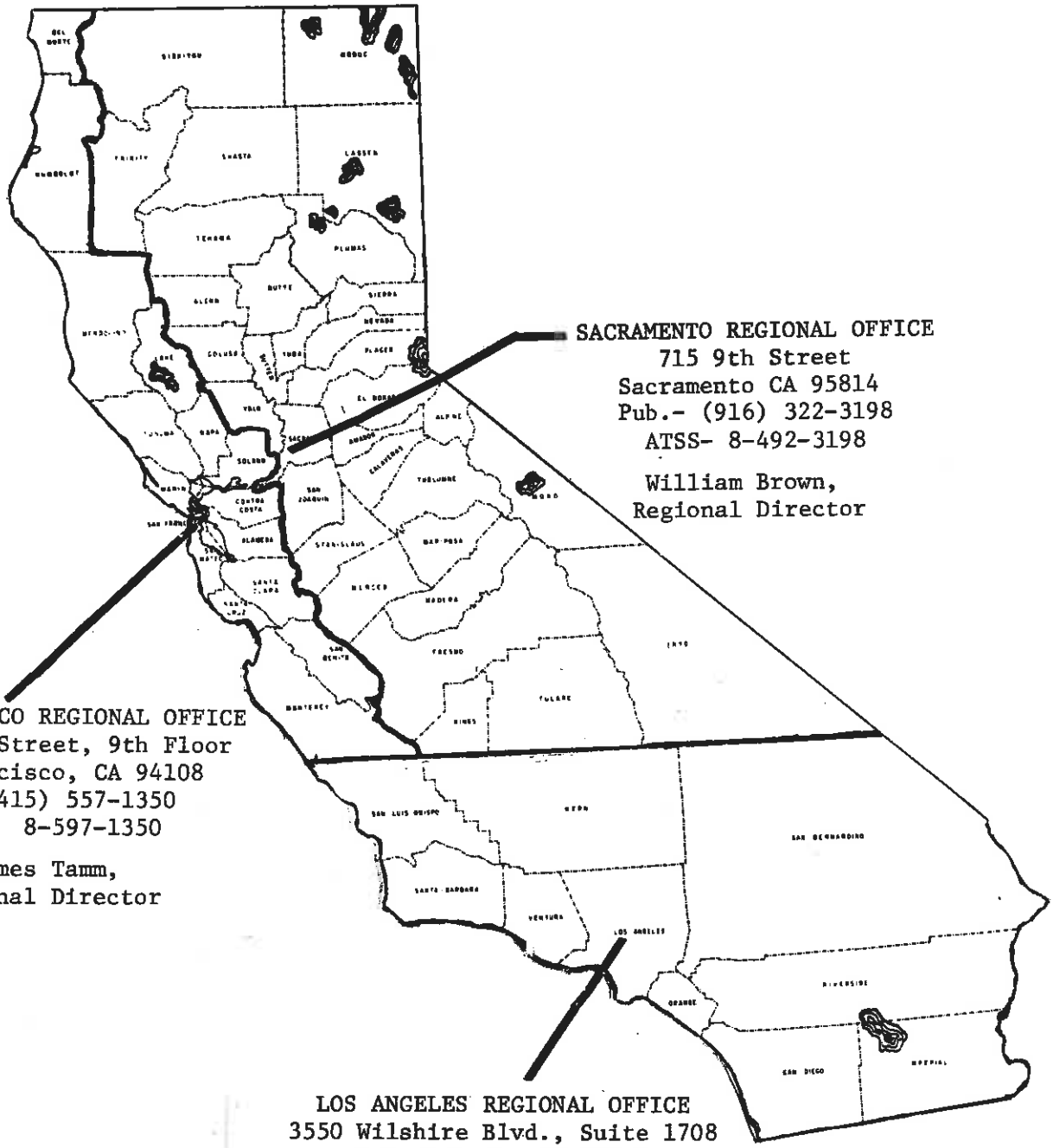
	Case Name	No.	Allegation	Filed	Disposition
26.	(SANTA ANA USD) SAPPINGTON v. SANTA ANA ED ASSOC	LA-CO-96	Employee organization issued misleading voting notice. ROP instructor on vacation when agreement ratified.	8-27-79	Request for injunctive relief held in abeyance. Unfair charge settled and withdrawn.
27.	SAN FRANCISCO USD, AFT v.	SF-CE-357 358, 359	Employer made unilateral changes re three classification of certif.	8-29-79	PERB denied request; remedies are adequate to prevent irreparable harm.
28.	LODI USD, LODI CSEA v.	S-CE-282	Employer locked out classified employees by delaying opening of school because of strike threat.	9-6-79	PERB denied; no irreparable harm. "Lockout" cease 9-10.
29.	BAKERSFIELD CITY SD ELEMENTARY TEACHERS ASSOC v.	LA-CO-99 CE-517 CE-522	Work stoppage.	9-7-79	PERB obtained temporary restraining order from the Court. Parties settled.
30.	SAN FRANCISCO USD v. AFT	SF-CO-98	Strike situation; school opening delayed. Impasse not declared.	9-19-79	PERB obtained TRO; filed Declaration for Contempt against AFT.
31.	JEFFERSON UHSD, AFT v.	SF-CE-404	Strike situation.	9-24-79	PERB denied. No irreparable harm shown. AFT appealed to PERB for injunctive relief.
32.	JEFFERSON UHSD, AFT v.	SF-CE-407	Employer using decertification petition filed by CTA as an excuse not to bargain with AFT.	10-2-79	CTA withdrew decertification petition and employer agreed to bargain. AFT withdrew request.
33.	POWAY USD, AFT v.	LA-CE-534	AFT objects to methods of obtaining factfinding panel.	10-9-79	Parties settled disagreement. Request for injunctive relief withdrawn.

	Case Name	No.	Allegation	Filed	Disposition
34.	SANTA CLARA COUNTY BD OF EDUCATION v. SEIU #715	SF-CO-101	District bus drivers conducting sick-out over negotiations involving agency shop.	11-6-79	PERB decided to seek after SEIU failed to respond to investigation. Settled 11-13.
35.	LOS RIOS CLASS. EMPLOYEES v. LOS RIOS CCD	S-CE-304	Employer budget for 1979-80 adopted without negotiations. Employer refuses to mediate.	12-13-79	PERB denied request. Impossible to justify prior to formal hearing on merits.
36.	LOS RIOS SUPERVISORS ASSOC. v. LOS RIOS CCD	S-CE-305	Employer budget for 1979-80 adopted without negotiations. Employer refuses to mediate.	12-13-79	PERB denied request. Impossible to justify prior to formal hearing on merits.
37.	WESTERN GRAPHIC ARTS UNION v. UNIV. OF CALIFORNIA	SF-CE-5-H	Employer refuses to negotiate on change of hours from 35 to 40 with three unions.	12-18-79	Decision pending.

UNFAIR PRACTICE CASELOAD GRAPH - 1979



Regional Office Jurisdictions



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