

**PUBLIC EMPLOYMENT RELATIONS BOARD**

**1995-96 ANNUAL REPORT**

**NOVEMBER 1996**



**PETE WILSON**

**GOVERNOR**

**STATE OF CALIFORNIA**

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## I. INTRODUCTION

The Public Employment Relations Board (PERB) is pleased to submit its 1995-96 annual report. The report presents a brief overview of PERB's statutory authority, organizational structure, major functions, and workload.

It is the mission of PERB to administer and enforce California public sector collective bargaining laws in an expert, fair and consistent manner; to thereby promote improved public sector employer-employee relations; and to provide a timely and cost effective method through which employers, employee organizations and employees can resolve their labor relations disputes.

PERB, like many agencies within state government, has experienced substantial downsizing over the last several years. Since the 1990-91 fiscal year, PERB has seen its financial and staff resources reduced by approximately 40 percent. Simultaneously, PERB has experienced a steady increase in unfair labor practice workload, straining its ability to adjudicate cases in a timely fashion. As a result, PERB has engaged in an ongoing process of program evaluation to identify those discretionary and low priority activities which can be curtailed or eliminated to ensure PERB's ability to continue to fulfill its basic mission.

The staff and members of PERB are committed to meeting the challenge of maintaining service levels in this era of increasing workload and shrinking resources. Through increased application and use of technology in the performance of our functions, through an emphasis on the development of generalist staff, through a collaborative team approach to the management of PERB and its workload, and through cost effective use of all of PERB's resources, PERB has been able to meet this challenge and fulfill its mission. As PERB ends the 1995-96 year, however, it appears that the future will hold even greater challenges as unfair labor practice workload continues to increase.

To obtain additional information about PERB, its organization, functions and workload, please contact the Public Employment Relations Board Sacramento Headquarters at (916) 322-3198.

David M. Caffrey  
Chairman

## II. STATUTORY AUTHORITY AND JURISDICTION

The Public Employment Relations Board (PERB) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. PERB administers three collective bargaining statutes and insures their consistent implementation and application. The statutes administered by PERB are: 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.

PERB is vested in the EERA with the exclusive initial jurisdiction to adjudicate disputes between the parties subject to these statutes which involve allegations of unfair labor practices. The California Supreme Court and Courts of Appeal, in consideration of the administrative expertise of PERB and the need for uniformity of decisions, have held that such disputes must first be heard by PERB.

Since 1976, approximately 10,000 unfair practice charges have been filed with PERB, and the Board itself has issued nearly 2,000 decisions. In adjudicating these cases, PERB interprets and applies the statutes it administers and describes the framework for public sector collective bargaining in California.

Approximately 860,000 public sector employees and nearly 1,200 public employers are included within the jurisdiction of the three Acts administered by PERB. The majority of these employees (c. 650,000) work for California's public education system from pre-kindergarten through and including the community college level. The remainder are employees of the State of California (c. 120,000), or the University of California, the California State University, and the Hastings College of Law (c. 90,000).

Collective bargaining involving California's municipal, county, and local special district employers and employees is authorized by the Meyers-Milias-Brown Act, which is not subject to PERB's jurisdiction.

### **III. THE BOARD AND ITS DUTIES**

The Public Employment Relations 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. As of June 30, 1996, the Board consisted of the following members:

David M. Caffrey, Chairman  
Marz Garcia, Member  
James C. Johnson, Member  
Martin B. Dyer, Member

In addition to the overall responsibility for administering the three statutes, the Board itself acts as an appellate body to hear challenges to proposed decisions that are issued by the staff of the Board. 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 staff, 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 by establishing procedures to resolve such disputes;
- 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 it administers.

During fiscal year 1995-96, 72 cases were added to the docket of the Board itself. With 15 open cases on the docket as of July 1, 1995, the Board's 1995-96 caseload consisted of 87 cases. The Board decided 79 of these cases in 1995-96 and ended the fiscal year with 8 cases on its docket, the lowest level in several years. Over the last four years, the Board itself has issued 319 decisions, an average of 80 decisions per year.

#### IV. THE ORGANIZATION AND FUNCTIONS OF PERB

The Board staff consists of approximately 40 persons. PERB is headquartered in Sacramento and maintains regional offices in Los Angeles and San Francisco. The major organizational elements of PERB, in addition to the Board itself, are the Division of Administrative Law, the Office of the General Counsel, the Representation Section, and the Administration Section. These organizational elements are described below.

The major functions performed by PERB staff involve the evaluation and adjudication of the unfair practice charges filed annually with PERB; and the administration of the statutory process through which public employees select employee organizations to represent them in their labor relations with their employer. These functions are described below.

The relatively small size of PERB staff makes it essential that the organizational boundaries of PERB be flexible, providing the ability to direct personnel resources to the priority workload at any point in time. Accordingly, regional attorneys may serve as ad hoc ALJs to relieve a backlog of cases awaiting formal hearing. Similarly, representation staff may investigate unfair practice charges under the direction of a PERB regional attorney. By utilizing its staff resources in this way, PERB has been able to effectively handle its workload.

The **Division of Administrative Law** houses PERB's Administrative Law Judges (ALJ), who serve as impartial judges of the labor disputes which fall under PERB's jurisdiction. PERB ALJs conduct informal conferences with the parties to unfair practice cases in an effort to settle disputes before proceeding to formal hearing. If no settlement is reached, PERB ALJs conduct adjudicative proceedings complete with the presentation of evidence and examination of witnesses under oath. The ALJs issue proposed decisions consisting of written findings of fact and legal conclusions.

The **Office of the General Counsel** includes PERB's chief legal officer and regional attorneys. The office is responsible for managing the processing of unfair practice charges, and for providing legal representation to PERB in all court proceedings.

An **unfair practice charge** may be filed with PERB by an employer, employee organization, or employee, alleging that an employer or employee organization has committed an act which is unlawful under one of the Acts administered by PERB. Examples of unlawful employer conduct are: coercive questioning of employees regarding their union activity; disciplining or threatening employees for participating in union activities; or promising benefits to employees if they

refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; or failing to represent bargaining unit members fairly in their employment relationship with the employer.

Unfair practice charge workload has increased steadily over the last several years, from 467 filings in 1992-93, to 546 in the year just completed. This increase has strained PERB's ability to adjudicate these cases in a timely fashion.

An unfair practice charge filed with PERB is evaluated by staff to determine whether a prima facie case of an unlawful action has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit a reasonable inference that a violation of the EERA, Dills Act, or HEERA has occurred. If it is determined that 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. If the charge is neither amended nor withdrawn, the Board agent dismisses it. The charging party may appeal 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 is then given an opportunity to file an answer to the complaint.

Once a complaint has been issued, an ALJ or other PERB agent is assigned to the case and calls the parties together for an informal settlement conference, usually within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB ALJ is scheduled, normally within 60 days of the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party to the case may then file an appeal of 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.

Proposed decisions which have not been appealed to the Board itself may not be cited as precedent in other cases before the Board. Decisions of the Board itself are both precedential and binding on the parties to a particular case. A digest of PERB decisions is available upon request.

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.

The **Representation Section** oversees the statutory process through which employees come to form a bargaining unit and select an organization to represent them in their labor relations with their employer. As of June 30, 1996, there were approximately 2,300 represented bargaining units within PERB's jurisdiction.

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications which reflect an internal and occupational community of interest. If only one employee organization petition is filed and the parties agree on the description of the bargaining unit, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for representational rights of the same 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 convenes 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 which sets forth the appropriate bargaining unit, or modification of that unit, and is based upon application of statutory unit determination criteria and appropriate case law to the facts obtained in the investigation or hearing. Once an initial bargaining unit has been established, PERB conducts a representation election in cases in which the employer has not granted voluntary 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 the three Acts PERB administers, and through the factfinding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time, a Board agent contacts both parties to determine if they have reached a point in their negotiations at which their differences are so substantial or prolonged that further meetings without the assistance of a mediator would be futile. Once PERB has determined that an impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

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

The **Administration Section** provides support services to PERB, such as business services, personnel, accounting, information technology, mail and duplicating. This section also maintains liaison with the Legislature, the Department of Finance and other agencies within state government.

## **V. OTHER PERB FUNCTIONS AND ACTIVITIES**

### **File of Collective Bargaining Agreements**

PERB regulations require that employers file with PERB a copy of all collective bargaining agreements reached pursuant to the three Acts PERB administers, within 60 days of the date of execution. These contracts are maintained as public records in PERB's regional offices.

### **Financial Reports**

The law requires recognized or certified employee organizations to file with PERB an annual financial report of income and expenditures. Organizations which have negotiated a fair share fee arrangement for bargaining unit members have additional filing requirements. Complaints alleging noncompliance with these requirements may be filed with PERB, which may take action to bring the organization into compliance.

### **PERB Advisory Committee**

The Advisory Committee to the Public Employment Relations Board consists of approximately 100 people from throughout California representing employers, employee organizations, law firms, negotiators, professional consultants, the public and scholars. The Advisory Committee was originally established several years ago to assist the Board in its regulation review process. Currently, the Advisory Committee continues to assist the Board in its search for ways to improve PERB's effectiveness and efficiency in working with public sector employers and employee organizations to promote the resolution of disputes and contribute to greater stability in employer-employee relations. Advisory Committee meetings are usually held semi-annually.

### **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. Additionally, PERB cooperates with the Institute of Industrial Relations of the University of California, Berkeley, in the dissemination of information concerning PERB policies and actions to interested parties throughout the state.

## **VI. 1995-96 WORKLOAD STATISTICS**

The major components of PERB's 1995-96 workload are summarized on the following pages, including:

- a brief description of the cases decided by the Board itself during 1995-96;
- a numerical summary of PERB's unfair practice charge workload during 1995-96;
- a brief description of the 1995-96 litigation activity of PERB's Office of the General Counsel;
- a numerical summary of PERB's representation case workload during 1995-96.

More detailed information concerning PERB decisions and workload may be obtained by contacting PERB's headquarters office.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1093a	CA State Employees Association v. CA State University	Union requests reconsideration of Board's decision dismissing an unfair practice charge alleging the University unilaterally suspended merit salary adjustments.	Request denied for failure to meet reconsideration standard.
1111	Elmer Sander v. Los Rios College Federation of Teachers	Union violated its duty of fair representation in handling employees' grievances.	Dismissed for failure to state a prima facie case and identify grounds for appeal.
1112	Thomas Arthur Romero v. Rocklin Teachers Professional Association	The union caused the employer to retaliate against the employee.	Dismissed for lack of standing.
1113	Service Employees International Union v. West Valley-Mission Community College District	District retaliated against two union officers by laying them off.	Dismissed as untimely.
1114	Poway Federation of Teachers v. Poway Unified School District	District retaliated against employees for concerted refusal to attend back to school night activities by placing formal reprimand letters in personnel files.	Dismissed. No violation found.
1115	Karen R. Hawkins v. Los Angeles Unified School District	District retaliated against employee for participation in protected activity.	Dismissed for lack of jurisdiction. Board deferred charge to parties' contractual grievance procedure.

**1995-96 DECISIONS OF THE BOARD**

DECISION NO.                      CASE NAME                                      ALLEGATION                                      DISPOSITION

1116	Gary Caviglia v. Service Employees International Union	Union violated its duty of fair representation in handling employee's grievance.	Dismissed for failure to state a prima facie case.
1117-S	State of CA and CA Union of Safety Employees	Unit modification petition including supervising museum security officer classification in protective services and public safety bargaining unit incorrectly granted because classification is supervisory.	Board found inclusion of supervising museum security officer in unit appropriate and granted unit modification petition.
1118	Pat Kirkaldie v. Alum Rock Education Association	Union violated its duty of fair representation in handling employee's grievance and failing to investigate the District's expenditure of program specialist salary funds and illegal elimination of program specialist.	Dismissed for failure to state a prima facie case and lack of standing.
1119	University of CA, Lawrence Livermore National Laboratory v. LLNL Protective Service Officers Association	Association failed to bargain in good faith.	Dismissed for failure to state a prima facie case.
1120	Gary Caviglia v. Morgan Hill Unified School District	District failed to meet and negotiate with employee's exclusive representative.	Dismissed for lack of standing and failure to satisfy PERB appeal regulation requirements.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1121	Jerry Ruben Rodriguez v. CA School Employees Association	Union violated its duty of fair representation by failing to fairly represent employee in employment disputes.	Dismissed as untimely.
1121a	Jerry Ruben Rodriguez v. CA School Employees Association	Employee requests reconsideration of Board's decision dismissing an unfair practice charge as untimely.	Request denied for failure to meet reconsideration standard.
1122-S	Parviz Karim-Panahi v. CA Office of Emergency Services	State discriminated and retaliated against employee for his exercise of protected activity.	Dismissed for lack of jurisdiction. Board deferred charge to parties' contractual grievance procedure.
1123	Lu Ann Casey v. Lodi Education Association	Union violated its duty of fair representation.	Dismissed for failure to state grounds for appeal.
1124	Nancy J. Hudock v. Lodi Education Association	Union violated its duty of fair representation.	Dismissed for failure to state grounds for appeal.
1125-S	John Kalko and David Ruger v. CA Department of Parks and Recreation	Department of Parks and Recreation retaliated against employees for exercise of protected activity.	Dismissed. No violation found.
1126-S	Cathy R. Hackett, et. al. v. CA State Employees Association	Union discriminated against employees for participation in protected activity by seeking their suspension from union and naming them in a civil law suit.	Violation found. Union ordered to cease retaliating against employees and stop seeking their suspension from the union.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1127	Victor Valley Faculty Association v. Victor Valley Community College District	District terminated employee for participation in protected activity.	Dismissed as untimely and for failure to state a prima facie case.
1128	Celia D. Bennett v. Oakland Education Association	Union violated its duty of fair representation in handling employee's grievance.	Dismissed as untimely and for failure to state a prima facie case.
1129	Charlene F. Davis v. Los Angeles Unified School District	District terminated employee for participation in protected activity.	Dismissed. No violation found.
1130-H	Daniel F. Cutshall and Casey Wack v. International Union of Operating Engineers	Union violated its duty of fair representation in handling employees' grievances.	Dismissed for failure to state a prima facie case.
1131	Jerry Ruben Rodriguez v. Salinas City Elementary School	District unlawfully terminated employee's employment.	Dismissed for lack of jurisdiction, failure to state a prima facie case and as untimely.
1132	George Vladimir Mrvichin v. American Federation of Teachers College Staff Guild	Union violated its duty of fair representation in handling employee's grievances and by withdrawing representation during dismissal proceedings.	Dismissed. No violation found.
1132a	George Vladimir Mrvichin v. American Federation of Teachers College Staff Guild	Employee requests reconsideration of Board's decision dismissing the complaint and unfair practice charge.	Request denied for failure to meet reconsideration standard.



**1995-96 DECISIONS OF THE BOARD**

DECISION NO.                      CASE NAME                                      ALLEGATION                                      DISPOSITION

1133	Annette M. Deglow v. Los Rios College Federation of Teachers	Union violated its duty of fair representation in handling employee's grievances and by making negative comments about employee to employer.	Dismissed. No violation found.
1134-H	Dejuan Marcus Perry v. American Federation of State, County and Municipal Employees	Union violated its duty of fair representation in handling of employee's grievance.	Dismissed for failure to state a prima facie case.
1135	Annette M. Deglow v. Los Rios Federation of Teachers	Union violated its duty of fair representation in handling employee's grievance.	Dismissed for failure to state a prima facie case.
1136	International Union of Operating Engineers v. CA Department of Corrections	State bypassed exclusive representative and dealt directly with employees.	Dismissed for lack of jurisdiction. Board deferred charge to parties' contractual grievance procedure.
1137	Annette M. Deglow v. Los Rios College Federation of Teachers	Union violated its duty of fair representation by discussing employee's unfair practice charges in union newspaper articles.	Dismissed for failure to state a prima facie case.
1138	CA School Employees Association v. Barstow Unified School District	District unilaterally contracted out pupil transportation services without negotiating.	Dismissed. No violation found under contract waiver provision.

1995-96 DECISIONS OF THE BOARD

DECISION NO.

CASE NAME

ALLEGATION

DISPOSITION

1138a	CA School Employees Association v. Barstow Unified School District	Union requests reconsideration of the Board's decision finding no violation when the District unilaterally contracted out pupil transportation services.	Reconsideration granted on the basis of newly discovered law.
1139-S	Olga V. Petrella v. CA Department of Motor Vehicles	State discriminated against employee for participation in protected activities by denying a retroactive pay increase and other benefits.	Dismissed as untimely and for failure to state a prima facie case.
1140	Annette M. Deglow v. Los Rios Federation of Teachers	Union violated its duty of fair representation by discussing employee's unfair practice charges in union newspaper articles.	Dismissed for failure to state a prima facie case.
1141	CA School Employees Association v. Redwoods Community College District	District unilaterally changed the hours of security officers prior to the completion of statutory impasse procedures.	Violation found. District ordered to restore the security officers previous shifts, stop interfering with CSEA's rights to represent members, and participate in good faith in statutory impasse procedure.
1142	Michael Lowman v. Los Rios College Federation of Teachers	Union violated its duty of fair representation in handling employee's grievances and by discussing employee's unfair practice charges in union newspaper articles.	Dismissed for failure to state a prima facie case.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1143	CA School Employees Association v. Santa Barbara Community College District	District refused to negotiate with the union over the 1995-96 school calendar.	Board granted parties' request to withdraw exceptions and vacated proposed decision.
1144	International Union of Operating Engineers v. CA Department of Food and Agriculture	State solicited employees to resign from union membership.	Dismissed for failure to state a prima facie case.
1145-S	CA Union of Safety Employees v. CA Department of Personnel Administration	State unilaterally changed release time rights, transferred work from California State Police to another bargaining unit, and delegated responsibility to negotiate to individual departments.	Dismissed for lack of jurisdiction and failure to state a prima facie case. Board deferred charge to parties' contractual grievance procedure.
1146	State Center Community College District v. CA School Employees Association	Union caused the District to violate EERA regarding a request for information.	Board granted parties' request to withdraw the unfair practice charge and appeal.
1147	Anthony Gabriel Vasek v. Mt. San Jacinto College Faculty Association	Union violated its duty of fair representation in handling an employee's grievance.	Dismissed for failure to state a prima facie case.
1148-H	Bonnie Dehler v. Regents of the University of California	University discriminated against employee by failing to properly maintain payroll and personnel records, improperly closing grievance, and failing to provide information.	Dismissed for failure to state a prima facie case, lack of standing and as untimely.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1149-S	International Union of Operating Engineers v. CA Department of Corrections	State unilaterally changed work schedules without negotiating.	Dismissed for failure to state a prima facie case.
1150-S	International Union of Operating Engineers v. CA Department of Developmental Services	State unlawfully withdrew first level response to an employee's grievance.	Dismissed for failure to state a prima facie case.
1151	Turlock American Federation of Teachers v. Turlock Joint Union High School District	District failed to bargain in good faith during contract reopener negotiations.	Dismissed for failure to state a prima facie case.
1152-H	Bonnie Dehler v. American Federation of State, County and Municipal Employees	Union Violated its duty of fair representation in handling employee's grievance.	Board found charging party established prima facie violation of duty of fair representation. Case remanded to General Counsel's office for issuance of a complaint.
1153	Association of Public School Supervisory Employees v. Los Angeles Unified School District	District unilaterally changed policy for evaluating classified supervisors without negotiating.	Dismissed for failure to state a prima facie case.
1154	El Centro Elementary Teachers Association v. El Centro School District	District unilaterally eliminated bargaining unit positions, transferred work out of the bargaining unit, and adopted a revised job description for a non-bargaining unit position without negotiating.	Remanded to General Counsel's Office for further investigation because unclear if prima facie case established.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1155-S	Charles Gregory v. CA Department of Corrections	State retaliated against employee in promotional exams for participation in protected conduct.	Dismissed for failure to state a prima facie case.
1156	United Administrators of Oakland Schools v. Oakland Unified School District	District engaged in bad faith bargaining by renegeing on a tentative agreement.	Dismissed for failure to state a prima facie case.
1157-H	CA Nurses Association v. Regents of the University of CA	University failed to bargain in good faith before and after the declaration of impasse.	Dismissed for failure to state a prima facie case.
1158-H	Florida M. Matthews v. The Regents of the University of CA	University unlawfully refused to postpone an investigatory interview.	Board granted party's request to withdraw appeal of proposed decision.
1159-H	Mary G. Higgins, et. al. v. Regents of the University of CA	University discriminated against employee by investigating sexual discrimination complaint against her and threatening future investigations.	Dismissed for lack of jurisdiction and failure to state a prima facie case. Board deferred charge to parties' contractual grievance procedure.
1160-S	CA State Employees Association v. CA Department of Education	State failed to meet and confer in good faith over a change in teaching staff work hours.	Dismissed for failure to state a prima facie case.
1161	Robert O. Aune v. Santa Rosa Junior College	College negligently misrepresented employee's early retirement options.	Dismissed as untimely and for failure to state a prima facie case.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1162	Gwendolyn Davison v. CA School Employees Association	Union violated its duty of fair representation by failing to adequately represent its African American membership.	Dismissed for failure to state a prima facie case.
1163	CA School Employees Association v. Arcata Elementary School District	District unilaterally converted a vacant full time custodian position into two part time positions without negotiating.	Violation found. District ordered to cease converting vacant full time position onto two part time positions and interfering with right of union to represent its members.
Ad-269-H	Regents of the University of CA, Association of Graduate Student Employees, et. al.	University seeks Board reversal of an ALJ's ruling allowing the parties to relitigate unit determinations due to changed circumstances.	Board affirmed the ALJ's ruling.
Ad-270	Peter Hefner v. Davis Teachers Association	Employee seeks reversal of ALJ's order granting a motion to dismiss the complaint and unfair practice charge.	Board affirmed ALJ's order.
Ad-271-H	Rebecca Gregg V. CA Faculty Association	Employee requests that Board excuse her late filed request for appeal of a dismissal of an unfair practice charge.	Request denied for failure to show good cause to excuse late filing.
Ad-272	Sylvia Robinson v. Los Angeles Unified School District	Employee requests Board reversal of appeal assistant's rejection of appeal for failure to state case name or grounds for appeal.	Board affirmed appeals assistant's rejection of appeal for failure to comply with PERB regulations.

**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
Ad-273	Sylvia Robinson v. United Teachers of Los Angeles	Employee requests Board reversal of appeal assistant's rejection of appeal for failure to state case name or grounds for appeal.	Board affirmed appeals assistant's rejection of appeal for failure to comply with PERB regulations.
Ad-274	Vincent E. Bueno v. North Monterey County Unified School District	Employee requests that Board excuse his late filed exceptions to an ALJ's proposed decision.	Request denied for failure to demonstrate good cause to excuse late filing.
Ad-275-S	Frank D. Janowicz v. CA Department of Youth Authority	Employee requests that Board excuse his late filed request for reconsideration.	Request denied for failure to demonstrate good cause to excuse late filing.
Ad-276-S	Frank D. Janowicz v. CA State Employees Association	Employee requests that Board excuse his late filed request for reconsideration.	Request denied for failure to demonstrate good cause to excuse late filing.
Ad-277	Barstow Education Association v. Barstow Unified School District	District requests that Board excuse its late filed response to exceptions to proposed decision.	Request granted because excuse was reasonable, credible and other party not prejudiced.
Ad-278	San Diego Unified School District, et. al.	Union seeks reversal of board agent's administrative determination dismissing objections to a decertification runoff election.	Administrative determination reversed. Board ordered new runoff election.

1995-96 DECISIONS OF THE BOARD

DECISION NO.                      CASE NAME                                      ALLEGATION                                      DISPOSITION

JR-17-S	CA Museum of Science and Industry v. CA Union of State Employees	State requests Board to join in seeking judicial review of the Board's decision.	Request denied.
I.R. 369	CA Union of State Employees v. CA Department of Personnel Administration	Union requests that PERB seek to enjoin State from unilaterally changing bargaining unit work.	Request denied.
I.R. 370	CA State Employees Association v. CA Department of Personnel Administration	Union requests that PERB seek to enjoin State from cancelling release time.	Request granted.
I.R. 371	Compton Community College Federation of Employees v. Compton Community College District	Union requests that PERB seek to enjoin District from repudiating collective bargaining agreement.	Request withdrawn.
I.R. 372	CA State Employees Association v. CA Department of Personnel Administration	Union requests that PERB seek to enjoin the State from taking adverse action against employee.	Request denied.
I.R. 373	American Federation of State, County and Municipal Employees v. University of CA Berkeley	Union requests that PERB seek to enjoin the University to comply with a document request prior to a massive layoff.	Request withdrawn.



**1995-96 DECISIONS OF THE BOARD**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
I.R. 374	San Diego Unified School District v. San Diego Teachers Association	District requests that PERB seek to enjoin the Association from engaging in a post-factfinding strike.	Request denied.
I.R. 375	San Diego Unified School District v. San Diego Teachers Association	District requests that PERB seek to enjoin the Association from striking.	Request withdrawn.
I.R. 376	CA School Employees Association v. San Diego Unified School District and San Diego Educational Support Personnel	CA School Employees Association requests that PERB seek to enjoin the District from bargaining over wages with San Diego Education Support Personnel.	Request withdrawn.
I.R. 377	CA State Employees Association v. CA Department of Corrections	Union requests that PERB seek to enjoin the State implementing a shift change for correctional educators.	Request withdrawn.
I.R. 378	CA State Employees Association v. CA Department of Corrections	Union requests that PERB seek to enjoin the State implementing a shift change for correctional educators.	Request denied.
I.R. 379	American Federation of State, County and Municipal Employees v. Regents of the University of CA	Union requests that PERB seek to enjoin the Regents from refusing to provide the union information.	Request withdrawn.

**1995-96 UNFAIR PRACTICE CHARGE WORKLOAD**

**I. Unfair Practice Charges Filed By Office**

	1st Half	2nd Half	Total
Sacramento	88	100	188
San Francisco	78	67	145
Los Angeles	100	113	213
Total	266	280	546

**II. Unfair Practice Charge Dispositions by Office**

	Charge Withdrawn	Charge Dismissed	Complaint Issued	Total
Sacramento	40	53	74	167
San Francisco	42	49	70	161
Los Angeles	69	36	69	174
Total	151	138	213	502

### 1995-96 UNFAIR PRACTICE CHARGE WORKLOAD

#### III. Prior Year Workload Comparison: Charges Filed

	1992-93	1993-94	1994-95	1995-96	4-Year Average
1st Half	232	268	252	266	255
2nd Half	235	233	280	280	257
Total	467	501	532	546	512

## 1995-1996 LITIGATION ACTIVITY

1. Parviz Karim-Panahi v. Pete Wilson, Office of Emergency Services, PERB, et. al. [PERB Decision No. 1122-S]; United States Ninth Circuit Court of Appeals, Docket No. 96-0-0277; United States District Court for the Central District of California, Case No. CV-95-6933 MRP (BQR). ISSUE: Did the District Court dismiss the case due to political pressure? Panahi filed Notice of Appeal on 5/30/96. Case pending.
2. Fort Bragg Unified School District v. Administrative Law Judge Allen R. Link, PERB and Does 1 through 10 Inclusive [PERB Case No. SF-CE-1829]; Mendocino Superior Court No. 74481, Docket No. 96-0-0276. ISSUE: Should PERB be enjoined from adjudicating this unfair practice charge until after the conclusion of related criminal proceedings? Petition for Writ of Mandate filed on 5/14/96. Court issued Minute Order Denying the Temporary Restraining Order on 5/17/96. The Court issued a Tentative Decision denying the Writ on 6/13/96.
3. Marin Community College District v. PERB [PERB Decision No. 1092]; California Supreme Court Case No. S052431. ISSUE: Did the Court of Appeal err in summarily denying the Petition for Writ of Review of PERB's Decision? Marin Community College District filed Petition for Review on 3/19/96. The Supreme Court denied the Petition on 4/26/96.
4. Alvin Washington v. PERB and Service Employees International Union [PERB Case No. SF-C-493]; U.S. District Court, Northern District, Case No. C-96-0054. ISSUE: Did PERB fail to eliminate unfair employment practices? Washington filed Complaint for Damages on 1/5/86. Court dismissed the Complaint on 1/16/96.
5. Department of Parks and Recreation v. PERB, John Kalko and David Ruger, Real Parties in Interest [PERB Decision No. 1125]; Fourth District Court of Appeal Case No. G0189991. ISSUE: Did PERB exceed its jurisdiction on this matter and should the matter have been deferred to arbitration? The Department of Parks and Recreation filed a Petition for Writ of Extraordinary Relief on 12/29/95. Case pending.
6. California State Employees Association v. PERB [PERB Decision No. 1100-S]; First District Court of Appeal Case No. A071644. ISSUE: Did PERB err by dismissing the unfair practice charge and deferring to the parties' contractual grievance and arbitration procedure? The California State Employees Association filed a Petition for Writ of Review on 9/29/95. Case pending.
7. PERB v. Department of Personnel Administration [PERB Case No. S-CE-760-S]; Sacramento Superior Court Case No. 95S05050. ISSUE: PERB seeks preliminary injunction against the Department of Personnel Administration for

refusal to grant release time for California State Employees Association negotiator. PERB filed Application for Temporary Restraining Order, Complaint for Preliminary Injunction, and Order to Show Cause on 9/8/95. Court granted the Temporary Restraining Order and Order to Show Cause. The California State Employees Association withdrew its request that PERB seek injunctive relief and unfair practice charge on 9/13/95. PERB filed a Request for Dismissal on 9/15/95.

8. Los Angeles Unified School District, et. al. v. PERB [PERB Decision No. 1079]; Second District Court of Appeal Case Nos. B900144 and B090128. ISSUE: Did PERB err in finding that an anti-me-too clause violates EERA? Petition for Writ of Extraordinary Relief filed on 2/3/95. Court denied Petition on 8/30/95.
9. Sierra High School District Teachers Association v. PERB [PERB Decision No. 1083]; Fifth District Court of Appeal Case No. F023381. ISSUE: Did PERB err in reversing the Administrative Law Judge's finding that the District violated EERA section 3543.5? Petition for Writ of Review filed on 3/20/95. Court denied Petition on 8/25/95.
10. California State Employees Association v. PERB, [PERB Decision No. 1093-H]; Second District Court of Appeal Case No. B095012. ISSUE: Did PERB err by finding no unilateral change violation and dismissing the Complaint? California State Employees Association filed a Writ for Review on 8/18/95. Case pending.
11. Joyce Saxton v. PERB [PERB Decision No. 1109]; Los Angeles County Superior Court Case No. BS034557. ISSUE: Did PERB err in dismissing Saxon's duty of fair representation Complaint? Saxton filed a Writ of Mandate on 7/5/95. PERB filed a Preliminary Opposition to Writ on 7/11/95. Case pending.
12. California Correctional Peace Officers Association v. PERB [PERB Order No. ad-231-S]; Third District Court of Appeal Docket No. 95-W-0267. ISSUE: Did PERB err in finding that the alleged denial of the union's organization rights was not subject to the parties' grievance and arbitration procedure? Petition for Writ of Review filed on 6/20/95. The California Correctional Peace Officers Association requested dismissal of Petition on 7/3/95.
13. Desert Sands Unified School District and Washington Charter School v. PERB and the California School Employees Association [PERB Case No. LA-CE-3473]; Los Angeles Superior Court Case No. BC126357. ISSUE: District seeks to enjoin PERB from processing a Complaint issued against the District. District filed Notice of Motion for Preliminary Injunction on 4/24/95. Preliminary Injunction issued 5/30/95. Case pending.

**1995-96 REPRESENTATION CASE ACTIVITY**

**I. Case Filings and Disposition Summary**

Case Type	Filed	Closed
Representation Petitions	21	17
Decertification Petitions	18	15
Amended Certification Requests	6	6
Unit Modification Petitions	56	50
Organizational Security Petitions	12	11
Mediation Requests	217	208
Factfinding Requests	37	44
Arbitration Panel Requests	1	1
Public Notice Complaints	1	1
Compliance	18	17
Election Objections	2	2
<b>Total</b>	<b>389</b>	<b>372</b>

## 1995-96 REPRESENTATION CASE ACTIVITY

### II. Prior Year Workload Comparison: Cases Filed

	1992-93	1993-94	1994-95	1995-96	4-Year Average
1st Half	223	187	205	172	197
2nd Half	290	256	236	217	250
Total	513	443	441	389	447

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### III. Elections Conducted

Representation	5
Severance	1
Decertification	10
Organizational Security	11
Unit Modification	1
Total	28