

PUBLIC MEETING MINUTES

APRIL 11, 2019

10:00 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office

425 West Broadway

Glendale, California

Members Present

ARTHUR A. KRANTZ, Member

ERIC R. BANKS, Member

ERICH W. SHINERS, Member

LOU E. PAULSON, Member

Quorum Present? Yes

Executive Staff Present

JOSHUA GOLKA, Executive Director

MARY ANN AGUAYO, Deputy Executive Director

FELIX DE LA TORRE, General Counsel

SHAWN CLOUGHESY, Chief Administrative Law Judge

LORETTA VAN DER POL, Division Chief, State Mediation & Conciliation Service

Proceedings:

- Meeting called to order at 10 a.m. by Member Krantz.

Since February 14, 2019, the Board has been in continuous closed session to deliberate on pending cases on the Board's docket.

Member Krantz stated that the public meeting was being teleconferenced between all three PERB offices.

Member Krantz then read into the record the following decision numbers: 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, and 2636.

Member Krantz further noted that the following requests for injunctive relief have been resolved: IR 766, IR 767, IR 768, IR 769, IR 770, IR 771, and IR 772.

A descriptive list of the aforementioned decisions, determinations, and resolutions can be found on PERB's website.

Motion: Motion by Member Banks and seconded by Member Shiners to close the February 14th, 2019 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

- **Adoption of Minutes**

Member Krantz officially opened the Public Meeting of April 11, 2019, by asking the Board if they would like to discuss potential corrections to the minutes of February 14th, 2019, or move to approve it.

Motion: Motion by Member Paulson and seconded by Member Banks to approve the minutes of the February 14th, 2019 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

- **Public Comment**

Leonard Isenberg, a Los Angeles resident, contended that experienced, older teachers are being fired without due process and against the fundamental principles of constitutional law.

Executive Staff Reports:

Joshua Golka, Executive Director, stated that, at the end of February, he gave an overview of collective bargaining to the members of the Senate Labor and Public Employment Committees and the Assembly Labor and Public Retirement Committees.

Mr. Golka further stated that PERB's budget item will come up in the Assembly Budget Subcommittee on April 23rd, 2019. Then on May 9th, the budget item will be considered by the Senate, which will focus more on the Mission-Based Review conducted by the Department of Finance.

Mr. Golka concluded his report by introducing Nikoo Seirafi, a new analyst in the Los Angeles Regional Office. Ms. Seirafi will be supporting the activities of the General Counsel, Administrative Law Division, and the Division of Administration.

- **Deputy Executive Director's Report**

Mary Ann Aguayo, Deputy Executive Director, reported that a year-end surplus of 1.1 million dollars is projected for fiscal 2018-19 due to salary savings from vacant staff and appointee positions. For fiscal year 2020-21, PERB plans to submit budget-change concepts on or before the deadline, imposed by Labor and Workforce Agency, of April 26th.

Ms. Aguayo also stated that, of the eight new positions received in January, all but two have been filled. In sum, Human Resources completed 14 hires and

promotions from January to March and have five staff vacancies and four appointee vacancies remaining.

Ms. Aguayo provided several updates on Information Technology: she introduced Steve Foster with CloudKeeper as PERB's new IT contractor; she reported that the Voice over Internet Protocol has been successfully installed in the Los Angeles Regional Office; and she stated that a contract has been executed with Anvaya Solutions for the Cyber Security Assessment. Ms. Aguayo also shared that the ePERB case tracking project was placed on hold through late April, and emphasized a need for PERB's designated volunteers to enter and test the system.

- **General Counsel's Report**

Felix De La Torre, General Counsel, reported that the General Counsel's Office received 118 new unfair practice charges during February 2019 and March 2019, which is an increase from the 97 received in the prior two months.

In February and March, the General Counsel's Office completed 121 investigations, which is an increase from the one hundred investigations completed in the prior two months.

During February and March, the General Counsel's Office issued 53 complaints and dismissed 27 charges compared to the 57 complaints issued and the 15 charges dismissed in December and January.

Also in February and March, case processing time decreased from a two-month average of 175 days in December and January to 139 days in February and March.

The number of litigation matters completed increased to 20 during February and March from 15 during December and January.

Fact-finding requests decreased from 12 in December and January to ten requests in February and March.

The number of representation petitions increased; 12 petitions in December and January compared to 14 in February and March.

Mr. De La Torre stated that, since the last Board meeting, there have been seven requests for injunctive relief, four new litigation cases filed by or against PERB, and one new case determination.

Mr. De La Torre reported that his office is tracking two PERB-related bills through the legislative process; AB 249 and AB 378. He provided the status and the significance of each.

Lastly, Mr. De La Torre welcomed Matthew Seipel, a new Regional Attorney in the Los Angeles Regional Office.

- **Chief Administrative Law Judge's Report**

Shawn Cloughesy, Chief Administrative Law Judge, welcomed Bernhard Rohrbacher, a new Administrative Law Judge for the Los Angeles Regional Office.

Chief Administrative Law Judge Cloughesy stated that Sacramento and Oakland are calendaring cases three months out from the informal; Glendale 3.5 months.

Additionally, Administrative Law Judge Cloughesy reported that the number of hearing days is up 20 percent this year, the proposed decisions are down, and the number of case closures remains the same, presumably because more cases are settling. The exceptions ratio remains at a low 32 percent.

- **SMCS, Division Chief's Report**

Loretta van der Pol, Division Chief, reported that SMCS's workload is holding at about the same as the prior year; SMCS had four representation cases in February and seven in March.

Ms. van der Pol announced Sandra Poole, a new mediator for Northern California.

Ms. van der Pol further stated that SMCS has collected about 45 thousand dollars, year-to-date, on the arbitrator membership fees, requests for lists of arbitrators and chargeable work.

Motion: Motion by Member Banks and seconded by Member Paulson to accept the staff reports.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

- **Old Business**

Executive Director Golka updated the Board on the progress of implementing the priorities gleaned from the Case Processing Efficiencies Initiative.

- **New Business**

Member Krantz announced that the first item of consideration would be whether to submit a proposed rulemaking package to the Office of Administrative Law in order

to initiate the formal rulemaking process regarding regulations to implement the Judicial Council Employer-Employee Relations Act (JCEERA) covering collective bargaining for employees of the Judicial Council.

Ronald Pearson, Supervising Attorney, presented a package of proposed changes to PERB's regulatory text, explaining the origin and reasons for changes. Mr. Pearson answered Board member questions. No member of the public appeared at the meeting to present comments.

Motion: Motion by Member Banks and seconded by Member Shiners to approve submitting the proposed JCEERA rulemaking package to the Office of Administrative Law in order to initiate the formal rulemaking process.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Member Krantz announced that the second item of consideration would be whether to submit a proposed rulemaking package to the Office of Administrative Law to initiate the formal rulemaking process to revise regulations regarding exceptions to proposed decisions.

Mr. De La Torre provided background and highlights to three exceptions regulations; Rule 32300, 32310, and 32312. The proposed changes also tie in with priorities in the Case Processing Efficiencies.

Mr. De La Torre also addressed the concerns submitted in a letter by Ms. Kerianne Steele, Attorney with the Weinberg Roger and Rosenfeld law firm. No member of the public appeared at the meeting to present comments.

The Board members discussed potential revisions to the draft regulations to respond to certain concerns raised. The Board directed Mr. De La Torre to work with staff on making revisions to the draft regulations for review by the Board at its June 13, 2019 meeting.

Member Krantz announced that the third item of new business for the Board's consideration would be a request from SMCS for the Board to authorize SMCS to precede drafting modifications to current regulations.

Ms. van der Pol stated a desire to raise SMCS's current rate for Conflict Resolution in the Workplace mediation from 115 dollars per hour to 135 dollars per hour, to no longer charge for certain other work, and to change current regulations to conform to the actual practices and procedures of the Division.

Motion: Motion by Member Paulson and seconded by Member Banks to approve authorization for SMCS to draft the proposed modifications to current regulations as described.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Member Krantz announced the last agenda item, a memorialization of the late Administrative Law Judge Kent Morizawa by dedicating a Glendale hearing room in his honor.

Chief Administrative Law Judge Cloughesy expressed his deepest sympathy to the Morizawa family. He then introduced Ms. Chanda Dancy Morizawa, Kent's wife, Taizo Morizawa, Kent's son, Masuo Fukumoto, Kent's father, and Kyoko Morizawa, Kent's mother.

He then presented Chanda Morizawa with a plaque for her to hang on the hearing room's wall, dedicating the hearing room in Administrative Law Judge Kent Morizawa's honor.

Mr. Golka presented California State Senate and Assembly memorial resolutions from Senator Anthony Portantino and Assemblymember Laura Friedman issued as a tribute to Kent's exemplary life and accomplishments.

- **Meeting Adjourned.**

Member Krantz stated that, immediately upon recess, the Board will be in continuous closed session each business day until the next regularly scheduled meeting on June 13th, 2019.

Motion: Motion by Member Banks and seconded by Member Shiners to recess the meeting to continuous closed session.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

APPROVED AT THE PUBLIC MEETING OF: **June 13, 2019**

Arthur A. Krantz, Board Member