

**PUBLIC MEETING MINUTES**

**Virtual Meeting**

FEBRUARY 11, 2021

10:00 a.m.

**PUBLIC EMPLOYMENT RELATIONS BOARD**

Headquarters Office

1031 18th Street

Sacramento, California

**Members Present**

ERIC R. BANKS, Chair

ARTHUR A. KRANTZ, Member

LOU E. PAULSON, Member

ERICH W. SHINERS, Member

*Quorum Present? Yes*

**Executive Staff Present**

JOSHUA GOLKA, Executive Director

SUSAN DAVEY, Deputy Executive Director

FELIX DE LA TORRE, General Counsel

SHAWN CLOUGHESY, Chief Administrative Law Judge

GERALD FECHER, Interim Director, SMCS

**Proceedings:**

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

Since December 10, 2020, the Board has been in continuous closed session to deliberate on cases pending on the Board's docket. A list of those Board decisions, determinations, and resolutions can be viewed on PERB's website.

**Motion:** Motion by Member Paulson and seconded by Member Shiners to close the December 10, 2020, Public Meeting.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

Chair Banks officially opened the Public Meeting of February 11, 2021. He congratulated Member Krantz on his reappointment to another term serving on the Board.

Likewise, Member Krantz congratulated Chair Banks on his appointment to Board Chair.

**Adoption of Minutes**

Chair Banks asked the Board if they would like to discuss potential corrections to the minutes of December 10, 2020, or move to approve it.

**Motion:** Motion by Member Shiners and seconded by Member Paulson to approve the minutes of the December 10, 2020, Public Meeting.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

**Public Comment**

No public participants requested to comment on issues outside of the agenda; however Mr. Brian Crowell submitted written comment. To request a copy of the written comments, please e-mail Cheryl.Shelly@perb.ca.gov

Member Shiners announced that his legal advisor, Erik Cuadros, has moved to another position within the agency. Camille Binon, from the Office of the General Counsel, is now assisting Member Shiners.

Chair Banks announced that Brendan White has returned to the Office of the General Counsel. Sheena Farro, from the Office of the General Counsel, has now joined Chair Banks' team.

**Executive Staff Reports:**

Joshua Golka, Executive Director, gave a Legislative update, stating that over 900 bills have been introduced. PERB is tracking a few those bills including Senate Bill 270, Assembly Bill 314, and Assembly Bill 237.

On the rulemaking side, Mr. Golka stated that the filing regulations go into effect on February 15th. The language for those regulations as well as FAQs can be viewed on PERB's website.

Mr. Golka reminded everyone who has not yet registered on the ePERB public portal to do so immediately; come Monday, there will no longer be the ability to file with PERB through e-mail or by fax.

On the rulemaking front, Mr. Golka stated that eight rulemaking packages are being bundled for successive submission over the coming weeks and months.

### **Report - Division of Administration**

Susan Davey, Deputy Executive Director, reported that PERB currently has 69-1/2 filled permanent positions and 4-1/2 vacancies. End of the year personnel changes include the retirement of an Administrative Law Judge-III, and the promotion of an ALJ-I to an ALJ-II.

Ms. Davey welcomed newly hired Kristin Cantrell, a staff services analyst in the Los Angeles Office. She also congratulated Chair Banks on his recent appointment to Board Chair.

She stated that Mr. Erik Cuadros came to an ALJ-I position from a Board advisor position, Brendan White returned to the Office of the General Counsel, and two out-of-class assignments -- Sheena Farro and Camille Binon -- are serving as Board advisors.

For Fiscal Services, Ms. Davey stated that the forecasted IT cost for the year came in just over a million dollars, a figure much higher than expected due to the cost of securing contracts for the necessary upgrades to be compliant with the Department of Technology. Ms. Davey projects a very close fiscal year due to the financial impact of COVID.

Ms. Davey stated that progress is continuing with migrating to cloud-based storage. For cyber-security, Ms. Davey is working with the Department of

Technology to prevent phishing attempts and ransomware attacks and to ensure the PERB network is secure.

Providing an update on Facilities, Ms. Davey stated that the Sacramento Headquarters Office construction project has been signed off. For Oakland, she stated they are still working with DGS and the current landlord to secure a short-term lease.

Ms. Davey is hopeful of securing a contract for ongoing remediation and expects to be compliant with AB 434 by the end of the fiscal year.

ePERB is still in the post go-live adjustment period but expects to hand it over to the maintenance team in March.

Expenditure in response to COVID is just under 100 thousand dollars, which includes the cost of two full-time employees assigned to contact tracing.

### **Report - Office of the General Counsel**

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 81 new unfair practice charges in December 2020 and January 2021; a decrease from the prior two-month period of 159.

In December and January, the General Counsel's Office completed 107 case investigations, a slight decrease from the 108 investigations completed in the prior two-months.

In December and January, the General Counsel's Office issued 68 complaints and dismissed 16 charges. This compares to the prior two months of 52 complaints issued and 21 charges dismissed.

Factfinding requests decreased; in December and January, the GC Office received only one request as compared to six requests in the prior two-month period.

The number of representation petitions decreased from 34 petitions in October and November to 22 in December and January.

Since the last Board meeting, the Office of the General Counsel has received

no injunctive relief requests, one litigation matter filed against PERB, and four final case determinations. Mr. De La Torre provided the details and the status on each.

Mr. De La Torre expressed his gratitude to the staff attorneys, the legal support staff, and to the Board for their extraordinary effort in writing, reviewing, and filing four Appellate briefs in a two-week time period.

### **Report - Division of Administrative Law**

Shawn Cloughesy, Chief Administrative Law Judge, announced the appointment of Erik Cuadros as an ALJ-I to the Division of Administrative Law.

Judge Cloughesy stated that they continue to set cases three to four months out from the informal. The number of active cases is up slightly and the total days in hearing is 65 percent higher than the previous year.

The average number of days for issuance of proposed decision continues to be 90, and the exceptions ratio remains around 43.

### **Report - State Mediation & Conciliation Service (SMCS)**

Gerald Fecher, Interim Director, reported an increase in case requests.

Mediations continue to be held remotely through the Zoom and Team Platform. SMCS continues to actively monitor the infection rates throughout the State. With the COVID vaccine rollout, SMCS hopes to return to safe, in-person mediation.

Currently, SMCS has two cases that are stayed pending litigation within another division of the agency. In January, SMCS received a request for a mail ballot remote card check election, which will be conducted remotely

For program administration, Mr. Fecher reported that, in December, SMCS received a total of \$2,903.75 for chargeable services; the Arbitration Panel Program yielding \$1,150.00 and Conflict Resolution in the Workplace Program receiving \$1,753.75.

In January, SMCS received a total of \$1,025.00 for chargeable services, all from the Arbitration Panel Program.

Mr. Fecher stated that SMCS continues to be very active in webinars and organizations, including Association of Labor Relations and Employment Relations Association, SMCS has a 2021 goal of employing more staff training.

Mr. Fecher congratulated Member Krantz on his reappointment to the Board and to Chair Banks on his appointment to Chair.

**Motion:** Motion by Member Krantz and seconded by Member Shiners to accept the staff reports.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

### **Old Business**

Mr. Golka presented a brief update on the ongoing Case Processing Efficiency Initiative. He stated that because the ePERB public portal has now been launched and the new regulations will go into effect on Monday, Mr. Golka will be moving forward with updating the training and guidance materials in a way that makes it easier for constituents to navigate.

Mr. Golka stated that they are in the early stages of developing a survey to gain feedback and insight from PERB constituents.

Felix De La Torre then presented a proposed amendment to PERB regulation section 32140, subdivision (d)(3)(A), that governs the proper recipient for filing or service in the case of a public school employer, asking the Board to approve the specific language so that it can be added to the next rulemaking package that moves forward.

**Motion:** Motion by Member Paulson and seconded by Member Krantz that the Board's prior instructions to the committee, to prepare and file the approved rulemaking packages with the Office of Administrative Law, and that the

committee not seek further Board approval unless it makes material changes to the proposed regulations, remain the direction to the subcommittee, notwithstanding the inclusion of the amendments to Section 32140 and to any approved package.

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

### **New Business**

There was no new business set on the agenda.

### **Meeting Adjourned**

Chair Banks stated that, immediately upon recess, the Board will meet in continuous closed session until the next regularly scheduled public meeting on April 8, 2021, when the Board will reconvene via Zoom.

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

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

**Ayes:** Krantz, Banks, Shiners, Paulson

**Motion Adopted - 4 to 0**

APPROVED AT THE PUBLIC MEETING OF: April 8, 2021