

PUBLIC MEETING MINUTES

Virtual Meeting

June 10, 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 April 8, 2021, 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 April 8, 2021 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of June 10, 2021.

Adoption of Minutes

Chair Banks asked the Board if they had any questions, comments, or corrections to the minutes of April 8, 2021, or move to approve it.

Motion: Motion by Member Shiners and seconded by Member Krantz to approve the minutes of the April 8, 2021 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Public Comment

Ms. Jodi Dyes submitted written comments to the Board. To request a copy of the written submission, please e-mail Cheryl.Shelly@perb.ca.gov

Executive Staff Reports:

Joshua Golka, Executive Director, stated that, as of June 15th, constituents will no longer be required to set an appointment to come into a PERB office. Additional guidance regarding masks, social distancing, and COVID-related updates will be provided on PERB's website.

Further, Mr. Golka reported on PERB's updated website: New information has been added under the *Frequently Asked Questions* tab; links and menus are now more user-friendly for mobile devices; and all PERB's annual reports, dating back to 1976, are now online.

All legislative bills that PERB has been tracking await hearings in the Policy and Fiscal Committees.

Mr. Golka thanked the Disability Advisory Committee for arranging PERB's staff to view, *The R-Word*, a film regarding attitudes and perceptions of individuals with intellectual and developmental disabilities.

Lastly, Mr. Golka informed the Board that the PERB constituent survey is now live and posted on PERB's website.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported that PERB currently has 71 filled permanent positions and one position allocated to a retired annuitant. PERB is actively recruiting to fill four vacancies: A Board member, a Board advisor, the CEA director of SMCS, and a staff services analyst.

Ms. Davey reported that, since the last Board meeting, her office has welcomed the following new hires: Christopher Pereira, an accountant-I specialist, Fernando Reyes, a regional attorney, Gordon Huang, IT procurement analyst.

For Human Resources, Ms. Davey stated that her division has completed the 2021 Leave Buy Back, which 25 employees participated in this year. She thanked Andrea and Jennifer, retired annuitants, for their hard work in meeting a very quick deadline.

Currently, PERB is undergoing an audit by the State Personnel Board, which will cover all aspects of Human Resources. Ms. Davey also stated that the CEA examination for the Director of State Mediation and Conciliation Services will be posted this week.

As a budget update, Ms. Davey reported that the budget is expected to have \$81,675 at the fiscal year end. She expressed her gratitude to the accounting and procurement analysts for preparing the financial statements.

Regarding IT, Ms. Davey stated that PERB has had their first security assessment from the California Department of Military. She expressed

appreciation to the IT Team for their hard work in upgrading the system.

Ms. Davey stated that they have signed a lease for the San Francisco Regional Office and are now waiting on the signed version to come back from the Department of General Services. The office is a hybrid environment where employees will be teleworking, and reserving space for when they need to come into the office to print documents, create files, and meet with constituents.

Regarding document remediation, Ms. Davey reported that they are now in full compliance with AB 434, ahead of schedule and ahead of the deadline. The document is available on the website. She thanked the procurement and IT Departments and all the staff who helped remediate the documents over the years.

Regarding ePERB, Ms. Davey stated that PERB will transition to customer support at the end of June. She thanked and SME team for working with the contractor on this very lengthy project.

Current year spending for COVID-related expenses is \$32,532, bringing the fiscal year total to \$105,642. Ms. Davey pointed out that, unlike prior reports, the wages for staff deployed as contact tracers are no longer included as a COVID-19 expense but are instead tracked separately.

Additionally, PERB is going to upgrade the air filters and make N95 masks available in PERB offices. At the end of the month, when contact tracing ends, PERB's participating staff members will be off-boarded.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 84 new unfair practice charges in April and May 2021; a slight decrease from the prior two-month period of 90.

In April and May, the General Counsel's Office completed 109 case investigations; a decrease from the 136 investigations completed in the prior two-month period.

In April and May, the General Counsel's Office issued 64 complaints and dismissed 21 charges. This compares to the 68 complaints issued and 21

charges dismissed in February and March.

Factfinding requests remain the same; in April and May, the GC Office received two factfinding requests, and in February and March, the GC Office received two as well.

The number of representation petitions decreased from 35 petitions in February and March to 34 petitions in April and May.

Since the last Board meeting, the Office of the General Counsel has received one request for injunctive relief, two litigation matters filed against PERB, and two final case determination. Mr. De La Torre provided the details and status on each case.

Report - Division of Administrative Law

Shawn Cloughesy, Chief Administrative Law Judge, stated that cases continue to be set three to four months out from the informal. Assignment of cases is 13 percent higher than the previous year, and the total days of hearing is 240 percent higher than the prior year.

The same number of cases were closed in the current fiscal year as had been closed in prior fiscal years before the pandemic. The average number of days to issue a proposed decision is about 114 as compared to the previous year of 117 days.

The exceptions ratio is 48 to 50 percent.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, Interim Director, reported that SMCS continues to have an uptick in case requests. Mediation sessions continue to be conducted remotely via teleconference and videoconference, although SMCS is preparing for the resumption of in-person mediation for some of the cases within the month.

Mr. Fecher stated that, since the last Board meeting, SMCS mediators successfully averted two threatened strikes in the Sacramento area and they

helped to ensure in-person instruction occurred on time via a mediated settlement with no work stoppage at a Bay Area School District. He expressed his gratitude to all staff who worked long and odd hours to achieve these settlements and gave special recognition to Ken Glenn, Denise Williams, and Gerry Adams in this regard.

In April, SMCS had seven representation cases; three cases were for decertification/certification with two continuing to be stayed pending the outcome of charges at PERB. The four remaining representation matters were for card check elections.

In May, SMCS had a total of eight representation cases; three for decertification/certification with two continuing to be stayed pending the outcome of charges at PERB, and the remaining five representation matters were for card check elections.

For program administration, Mr. Fecher reported that, in April, SMCS received a total of \$1,525 for chargeable services, the entirety resulting from the Arbitration Panel Program.

In May, SMCS received a total of \$1,625 for chargeable services, the entirety resulting from the Arbitration Panel Program.

Mr. Fecher stated that the SMCS continues to be very active in outreach efforts. As of late, SMCS has had an increase in the number of requests for interest-based bargaining training and facilitation and in Restorative Justice mediation.

Mediator Sandra Poole continues to be deployed to the State's contact tracing taskforce but is expected to return to SMCS by the end of the months. Mr. Fecher expressed his appreciation to Ms. Poole for her service to the State in this regard, but looks forward to her return to SMCS.

Member Paulson, Member Krantz, and Member Shiners expressed their appreciation to Mr. Fecher and to the SMCS staff for having gone above and beyond their duty to alleviate tensions between educators, students, parents, and School Districts.

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

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Public Comment

Because of prior difficulties logging into the public meeting, the Board again invited public comment.

Ms. Joei Dyes, a public commenter, expressed her dissatisfaction with the length of time it takes for cases to conclude with the inability to get updates on how a case is progressing through the hearing process. She also requested a breakdown on PERB's diversity among their attorneys, Board agents, and Judges.

Chair Banks thanked her for her comments.

Old Business

Mr. Golka stated that on June 11th, there will be a notice of proposed rulemaking published from the Office of Administrative Law. The rulemaking proposed is a bundle of consolidated regulatory changes that were previously approved by the Board covering a number of Case Processing Efficiencies Initiatives including rules governing exceptions, continuances, recusals, and more.

The text, statement of reasons, and notice of proposed action will appear on the PERB website under the *Latest News* section. This distribution starts the 45-day public comment period on those changes, which will run through July 26th, 2021.

Mr. Golka expressed his appreciation to all staff who helped in the compilation of the rulemaking package

New Business

Ms. Davey stated that both the Office of the General Counsel and PERB's accounting unit recommend no changes to the current factfinder rate, which the Board had approved in the Board meeting of July 23rd, 2020.

Travel expenses will continue to be paid at the State rate and outside of the contract.

Fiscal year '20-21, PERB had a total of three factfinding contracts for a total expense of \$10,806. In the previous year, there were 12 factfinding contracts for a total of 40 thousand dollars.

Motion: Motion by Member Paulson and seconded by Member Shiners that the Board makes no changes to the policy for compensating factfinding panel chairpersons.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

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 August 12, 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 Krantz 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:
August 12, 2021