

PUBLIC MEETING MINUTES

Virtual Meeting

August 12, 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, Director, SMCS

Proceedings:

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

Since June 10th, 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 June 10th, 2021 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of August 12, 2021.

Adoption of Minutes

Chair Banks asked the Board if they had any questions, comments, or corrections to the minutes of June 10th, 2021, or move to approve it.

Motion: Motion by Member Krantz and seconded by Member Paulson to adopt the minutes of the June 10th, 2021 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.

Executive Staff Reports:

Joshua Golka, Executive Director, provided a quick COVID update, stating that, because of the Delta variant, all PERB offices will now require masks for visitors and staff regardless of vaccination status.

Mr. Golka also reported that the constituent survey has closed. He thanked all constituents who participated in the survey, adding that one of the ideas presented in the survey has now been implemented; e-mailed notifications of Board decisions will now include a brief description of the case, the disposition, and whether or not it was a precedential or non-precedential decision.

Additionally, PERB will produce a monthly Board decision summary that will be posted as a news item on PERB's website and e-mailed to those on PERB's distribution list.

Mr. Golka also stated that the annual report is being worked on and will be available by or before the October 15th deadline. He thanked the staff who are working on it.

As a rulemaking update, Mr. Golka stated that the period for public comment has closed for the package relating to continuances, recusals, discovery, SMCS, and other issues. PERB's responses to those comments will be included in PERB's final statement of reasons, which will be submitted to the Office of Administrative Law.

No legislative actions have taken place because the Legislature has been on its summer recess.

Lastly, Mr. Golka officially welcomed Jerry Fecher as the Director of the State Mediation and Conciliation Service (SMCS). Previously, Mr. Fecher had been in the acting role as Interim Director. He is now the Director, the *interim* designation having been removed.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported that PERB currently has 72 filled permanent positions and one position filled by a retired annuitant. Currently, PERB has three vacancies; a Board Member, a Board Advisor, and a Presiding Conciliator.

Ms. Davey reported changes in staffing since the last Board meeting. She congratulated Jen Carter, who works in the Los Angeles Regional Office (LARO), on her promotion to an AGPA classification, and congratulated Jerry Fecher on his promotion to Director of SMCS.

Additionally, Andrea Duarte is filling an out-of-class assignment behind the staff services manager-I, and the LARO has a new legal support analyst, Michael Friedlander, and a new attorney, Gabriel Orea.

Ms. Davey reported that Human Resources expects to conclude the SPB audit this year, and she expects the results by spring of 2022.

Ms. Davey stated that e-mails have gone out requesting that all Annual Performance Appraisals should be turned in by August 31st, 2021. PERB was successful in achieving 100% compliance last year and she hopes the same will be true this year.

Further, Human Resources will be sending the annual, mandatory training notices to managers.

For Fiscal Services, Ms. Davey stated that the accounting staff has completed and submitted all year-end activities and adjustments to California Fiscal Service and Department of General Services on time. Additionally, the 2021-2022 budget has been uploaded into Fi\$Cal. Also, CalATERS training to SMCS staff has been completed, which will expedite the travel claims process.

Ms. Davey presented a final update on the year-end balance, which is \$86,387, although some adjustments can still be made due to direct pays and late invoices.

Ms. Davey stated that the Information Technology Unit is continuing the upgrade project by migrating to cloud-based storage. She also announced the hire of a new intern in IT, Sandsu Lee, who's majoring in IT at Consumnes River College.

Further, Ms. Davey reported that the recertification for accessibility of PERB's website has been completed. Currently, IT is working on a MATS and PASS replacement system and on deploying a management device for cellphones.

Last week, PERB received the scores from their IT security audit by the California Department of the Military. Ms. Davey was pleased to report an overall score of 85.74%. She thanked the IT staff for their diligent work in making that happen.

Construction has started on PERB's new suite in the San Francisco Regional Office. September 1st, 2021 is the anticipated reopening date.

The ePERB project handoff to Customer Services has once again been extended. Ms. Davey thanked the subject-matter experts for their continued work on the project.

For COVID response, Ms. Davey reported \$86,038 in COVID-related spending last year, bringing the total overall cost to \$159,000. Ms. Davey expressed her appreciation to Conciliator Sandra Poole for her outstanding dedication to the contact tracing and vaccination scheduler assignments.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 76 new unfair practice charges in June and July; a decrease from the prior two-month period of 84.

In June and July, the General Counsel's Office completed 85 case investigations; a decrease from the 109 investigations completed in the prior two-month period.

In June and July, the General Counsel's Office issued 43 complaints and dismissed 18 charges. This compares to the 64 complaints issued and 21 charges dismissed in April and May.

Factfinding requests have increased. In June and July, the GC Office received five factfinding requests, while in April and May, the GC Office had received only two.

The number of representation petitions increased from 34 in April and May to 43 in June and July.

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

Lastly, Mr. De La Torre welcomed Gabriel Orea, a new regional attorney in the Los Angeles Regional Office.

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. The number of hearing days is about the same as the prior year at this time, but Judge Cloughesy attributes that to a catching-up phase and anticipates the number of hearing days to decrease going forward.

Additionally, Judge Cloughesy stated that August was a good month in terms of closing cases and issuing decisions, and most especially, in terms of the exceptions ratio, which is currently at zero.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, Director, reported that SMCS continues to have an uptick in cases.

Mediation sessions continue to be conducted remotely via teleconference and videoconference, although SMCS has allowed mediators the discretion to conduct in-person meetings where safe and appropriate to do so.

Mr. Fecher also stated that SMCS received a total of 387 new cases in Fiscal year 2020-2021 and closed 384.

In June and July, SMCS received ten representation cases. Mr. Fecher provided the details and status of each case.

For program administration, Mr. Fecher reported that, in June, SMCS received a total of \$950.00 from chargeable services, the entirety resulting from the Arbitration Panel Program.

In July, SMCS received a total of \$11,710.25 from chargeable services; \$11,451.50 resulting from the Arbitration Panel Program. The amounts were significantly higher than prior months due to the inclusion of the annual renewal fees from the Panel Arbitrator Members.

Additionally, SMCS received \$258.75 from the Conflict Resolution for the Workplace Mediation Program.

In SMCS's continuing participation in outreach programs and organizations, mediators will be presenting at both State and national conferences in the upcoming months.

Lastly, Mr. Fecher echoed Ms. Davey's appreciation to Sandra Poole for her diligence in the contact tracing and vaccine scheduling assignments.

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

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Old Business

Mr. Golka stated that, in addition to the update on the rulemaking package addressed earlier, work continues behind the scenes on a potential rulemaking package around expedited decision-making in PERB.

Also, PERB is ramping up activity around the pro per training related pieces of the Case Processing Efficiency Initiative.

Chair Banks thanked the constituents for their continued involvement in helping to improve PERB.

New Business

No new business was listed 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 October 14, 2021.

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: October 14, 2021