

**PUBLIC MEETING MINUTES**

**Virtual Meeting**

December 9, 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 October 14th, 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 October 14th, 2021 Public Meeting.

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

**Motion Adopted - 4 to 0**

Chair Banks officially opened the Public Meeting of December 9, 2021.

### **Adoption of Minutes**

Chair Banks asked the Board if they had any questions, comments, or corrections to the minutes of October 14th, 2021, or move to approve it.

**Motion:** Motion by Member Krantz and seconded by Member Shiners to adopt the minutes of the October 14th, 2021 Public Meeting.

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

**Motion Adopted - 4 to 0**

### **Public Comment**

No public participants requested to comment on issues outside of the agenda; however, the Board received written comments by Ms. Joie Dyes. To request a copy of the written submission, please e-mail Cheryl.Shelly@perb.ca.gov.

Member Paulson, on behalf of the Board, welcomed the newly hired, administrative assistant to the Board, Henry Stevens.

### **Executive Staff Reports:**

Joshua Golka, Executive Director, stated that PERB's 2020-2021 annual report is now on PERB's website under the link, *About PERB*. It also includes Board decisions, Board decision descriptions, case dispositions, and every annual

report PERB has issued from the previous fiscal years.

Mr. Golka also confirmed that the 2022 Board meeting schedule has been published and is now available on PERB's website. As is customary, the meetings are scheduled for the second Thursday of every other month.

Last month, PERB attended the California Public Employers Labor Relations Association (CalPELRA) conference. Mr. Golka expressed his appreciation to staff and to SMCS for their expert delivery in their presentations on a number of topics at the conference.

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

Susan Davey, Deputy Executive Director, reported that PERB currently has 72 filled permanent positions and four vacancies; a Board Member, a Board advisor, a conciliator, and an office technician.

Ms. Davey then welcomed the new employees hired during November and December; Maryna Maltseva, Sadie Conner, Chouang Chang, Michelle Bacigalupi. She also welcomed Jun Payoyo as the presiding conciliator.

As a budget update, Ms. Davey stated that they currently have a projected balance of 12 thousand dollars; however, they have not yet received the appropriations from Finance for the raises that took effect on July 1st of 2021.

Ms. Davey stated that cellphones have been updated, 73 out of 76 lines have been replaced. Further, PERB has launched a new IT help desk ticketing system, a remote support tool for all work stations, and a mobile device management system for all cellphones.

Ms. Davey welcomed TCrest as PERB's new IT consultant, having taken over from CloudKeeper effective November 1, 2021.

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

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 106 new unfair practice charges in October and November; an increase from the prior two-month period of 86.

In October-November, the General Counsel's Office completed 108 case investigations; an increase from the 103 investigations completed in the prior two-month period.

In October-November, the General Counsel's Office issued 57 complaints and dismissed 25 charges. This compares to the 63 complaints issued and 23 charges dismissed in August and September.

Factfinding requests have decreased. In October and November, the GC Office received 6 factfinding requests compared to 11 requests received in August and September.

The number of representation petitions increased from 27 in August and September to 46 in October and November.

Since the last Board meeting, the Office of the General Counsel has not received any requests for injunctive relief; however, the GC Office did receive three new litigation matters filed against PERB and two final case determinations. 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 are now being set 2 to 3-1/2 months out from the informal, a gain from the prior months of three to four months out from the informal.

Assignment of cases is less than before, which Chief Judge Cloughesy attributes to the Office of General Counsel and their diligent work in achieving settlements.

The number of pending cases remains the same as in prior years, although the date of issuance of proposed decisions is lower than last year's average.

The exceptions ratio remains at 13 percent, which is significantly lower than the 48 percent in the prior year.

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

Gerald Fecher, SMCS Director, reported that the majority of mediation continues to be conducted by video; however, when safe and appropriate to do so and upon the request and agreement of the parties, in-person mediations have been held.

In October, SMCS had seven active representation matters, which included six elections and one card check. In November, SMCS had nine representation matters, six for elections and three for card checks. Mr. Fecher provided the details on each case.

For program administration, in October, SMCS, received a total of \$2,250 for chargeable services, the entirety resulting from the Arbitration Panel Program. In November, SMCS received a total of \$1,810 for chargeable services; \$1,350 from the Arbitration Panel Program and \$460 from the Conflict Resolution for the Workplace Mediation Program.

Also, Mr. Fecher stated that SMCS now has printed brochures encapsulating all SMCS services. He expects to have it in digital form soon.

Lastly, Mr. Fecher reiterated Ms. Davey's welcome to Jun Payoyo, who had become the presiding conciliator effective on November the 8th of 2021.

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

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

**Motion Adopted - 4 to 0**

## **Old Business**

Mr. Golka stated that the Office of Administrative Law completed its review of the consolidated package of regulations; the regulations become effective January 1, 2022. Notice of the regulations and revised language has been posted on PERB's website for constituents to view.

Mr. Golka further stated that work continues on two additional priorities from the Case Processing Efficiencies Initiative; the expedited decision process and the pro per training materials.

Mr. De La Torre detailed the amendments and revisions made to the regulations regarding the expedited decision process, the rules for placing a case in abeyance, and the finality of Board decisions.

**Motion:** Motion by Member Paulson and seconded by Member Shiners to approve submitting proposed text of the regulations to the Office of Administrative Law in order to initiate the formal rulemaking process to amend PERB Regulation Section 32147 that governs expedited cases, including the proposed text of the regulations, authorizing the committee to initiate rulemaking based on the approved text of the proposed regulations and authorizing the committee to review, evaluate and respond to public comments after the 45-day comment period without further Board approval unless the committee wants to make substantive changes from the previously approved text; in that case, the committee must bring the proposed changes to the full Board for approval.

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

**Motion Adopted - 4 to 0**

Chief Administrative Law Judge Cloughesy presented a rough draft of a proposal for regulations regarding requests for accommodations.

Chair Banks assigned Member Shiners and Member Paulson to a subcommittee to work with Judge Cloughesy on refining the draft for consideration at the February 2022 Board meeting.

**Motion:** Motion by Member Krantz and seconded by Member Paulson that the matter be moved to a subcommittee of Members Paulson and Member Shiners for refinement and reconsideration for the Board at the February 2022 public meeting.

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

**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 February 10th, 2022.

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: February 10, 2022