

# **PUBLIC MEETING MINUTES**

December 8, 2022

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 13th, 2022, 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 13th, 2022 Public Meeting.

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

**Motion Adopted - 4 to 0**

Chair Banks officially opened the Public Meeting of December 8th, 2022.

**Adoption of Minutes**

Chair Banks asked the Board if they had any questions, comments, or corrections to the minutes of October 13th, 2022, or move to approve it.

**Motion:** Motion by Member Krantz and seconded by Member Shiners to approve the minutes of the October 13th, 2022 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.

**Executive Staff Reports:**

Joshua Golka, Executive Director, acknowledged the staff achieving 5-, 10-, and 15-year anniversaries of service to PERB.

For regulatory updates, Mr. Golka reported that the public comment period on the Expedited Case Processing Regulation has closed. Three comments were received and each supported the proposed amendments to the regulations. Staff is currently preparing the final packet, which will then be submitted to the Office of Administrative Law for their final review. Mr. Golka anticipates these regulations to take effect on April 1st of 2023.

Regarding legislative issues, Mr. Golka reported that Assembly Bill 1, which would give PERB jurisdiction over Employer/Employee Relations Act, has been reintroduced into the legislative sessions. PERB will be watching the progress of the bill when the Legislature returns to business in January.

Lastly, Mr. Golka thanked the staff and those on the Board who participated, presented, and represented PERB at the California Public Employer Labor Relations Association conference.

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

Susan Davey, Deputy Executive Director, reported a total of 72 filled permanent positions, three executive appointment vacancies, and one vacancy for an attorney in the Office of the General Counsel that PERB is actively trying to fill. Ms. Davey welcomed a newly hired conciliator, Adrian Johnson, and congratulated Camille Binon on her promotion to Administrative Law Judge.

Ms. Davey further reported that Human Resources has recently implemented the Employee Recognition Program and organized a Lunch and Learn with a special guest from CalHR Savings Plus.

Regarding Fiscal Services, Ms. Davey welcomed two new student interns, Tanya Boltovskaya and Victoria Chernioglo. The consolidated annual report for State contracting was completed and exceeded the goals for contracting to both small business and disabled veterans.

Ms. Davey also reported that staff continues to work hard to facilitate moving the San Francisco Regional Office to the Harris State Building by February 2023.

In a budget update, Ms. Davey reported that they are projecting a balance of 161,662 dollars. The raises for the Attorney and Administrative Law Judge, positions tied to Bargaining Unit 2, have all been keyed.

Lastly, Ms. Davey stated that IT is continuing their work on standardizing procedures within the SAM Manual. They are also deploying iPads for the SMCS unit, endpoint protection for the PERB iPhones, and launching IT security awareness training.

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

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 121 new unfair practice charges in October and November, which is an increase from the 104 charges received in August and September.

In October and November, the General Counsel's Office completed 102 case investigations; a decrease from the 113 case investigations completed in the prior two-month period.

In October and November, the General Counsel's Office issued 64 complaints and dismissed 14 charges. This is compared to 64 complaints issued and 28 charges dismissed in August and September.

The number of factfinding requests has decreased. In August and September, the General Counsel's Office received nine factfinding requests compared to five requests received in October and November.

The number of representation petitions doubled from eight petitions in August and September to 16 petitions in October and November.

Since the last Board meeting, the General Counsel's Office has received four requests for injunctive relief, zero new litigation matters filed against or by PERB, and four final case determination. Mr. De La Torre reported the details and status on each case.

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

Shawn Cloughesy, Chief Administrative Law Judge, expressed his appreciation to have Ms. Camille Binon, recently promoted to Administrative Law Judge, join the Office of Administrative Law.

Judge Cloughesy reported that cases continue to be set three to four months out from the informal. The number of assigned cases is a bit higher than the prior year, though the number of active cases is about the same.

Lastly, Judge Cloughesy further reported that the total days of hearing is up by 38 percent over the prior year, and the exceptions ratio is 44 percent.

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

Gerald Fecher, SMCS Director, welcomed the newest conciliator, Adrian Johnson, who came on board November 15th.

Mr. Fecher stated that requests for mediation and representation continue to increase. Currently, SMCS has 130 open and active cases.

Mr. Fecher also reported that SMCS has been involved in two major strikes and proffered services in a number of other strikes and potential strikes, including reaching an agreement and resolving a strike at the City of Santa Cruz.

During October and November, SMCS received a total of seven representation and election matters. Mr. Fecher provided the details and status on each.

For Program Administration, Mr. Fecher reported that, in October, SMCS received a total of \$1,226.50 for chargeable services, the entirety resulting from the Arbitration Panel Program.

In November, SMCS received a total of \$1,400.75 for chargeable services, the entirety from the Arbitration Panel Program.

SMCS has concluded the rollout of a new PASS Arbitration List and Panel computer system, which went into full production in November. MATS, the mediation processing case system, has also been updated and is now more stable and useful to constituents.

Lastly, SMCS continues outreach efforts in the labor relations community, both in management and labor. Mediators have attended and presented at conferences to inform constituents of all mediation services.

Member Shiners then thanked Camille Binon for the great work she did as his legal adviser before being promoted to Administrative Law Judge.

**Motion:** Motion by Member Shiners and seconded by Member Paulson to accept the Executive Director, Division of Administration, Office of the General Counsel, Division of Administrative Law, and State Mediation and Conciliation reports.

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

**Motion Adopted - 4 to 0**

## **Old Business**

Mr. Golka provided an update regarding the Case Processing Efficiency Initiative. He thanked the constituents who filled out the survey regarding actions that PERB could take to make processes easier to navigate.

Mr. Golka stated that the committee will consider the feedback as they continue their work on the pro per training materials.

## **New Business**

Mr. De La Torre stated that Senate Bill 931 has been passed and signed into law, effective January 1st, 2023, which adds two remedies that the Board is required to add as part of their order when there is a finding that there is a violation of PEDD, a statute that makes it unlawful for public employers to deter or discourage public employees or applicants to be public employees from becoming or remaining members of an employee organization, or for authorizing representation by an employee organization, or from authorizing dues or feeds deductions.

Mr. De La Torre stated that the prior approved regulation package has now been amended to include provisions that indicate that the special remedies in the procedures apply, not only to PECC cases, but to PEDD cases as well.

**Motion:** Motion by Member Krantz and seconded by Member Paulson to approve submitting the proposed text of the regulations with the aforementioned changes to the Office of Administrative Law in order to initiate the formal rulemaking process to add new PERB regulations governing special remedies and procedures under the Public Employee Communication Chapter and the Prohibition on Public Employers Deterring or Discouraging Union Membership including approving 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 which case the committee must of course bring the proposed changes to the full Board for approval.

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

**Motion Adopted - 4 to 0**

Chair Banks announced the recipients -- both individuals and teams -- of the 2022 Employee Excellence Awards: Susan Davey; Jeff Edwards; the Barke Litigation Team - Joseph Eckhart, Jeremy Zeitlin, Daniel Crossen; the Rulemaking Team - Felix De La Torre, Ronald Pearson, James Coffey, Kimberly Procida, Sheena Farro; ePERB Development Team - Cheryl Shelly, Daniel Trump, Yaron Partovi, Mary Weiss, Eric Cu, Laura Davis, Felix De La Torre, Shawn Cloughesy, Wendi Ross; the COVID Response Team - Geycel Colcol, Andrea Duarte Kamalinafar, Chouang Chang, Jay Hernandez, Chris Pereira, Inna Gudumac, Maryna Maltseva, Polly Vaitayanonta, Ly Sturges, Oanh Tu.

The Board joined Chair Banks in congratulating this year's award winners for their exceptional work and dedication to PERB.

### **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 9th, 2023.

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 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: **February 9, 2023**