PUBLIC MEETING MINUTES

October 10, 2024
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
ADRIN NAZARIAN, Member
MARK KRAUSSE, Member

Quorum Present? Yes

Executive Staff Present

JOSHUA GOLKA, Executive Director
SUSAN DAVEY, Deputy Executive Director
FELIX DE LA TORRE, General Counsel
ERIC CU, Interim Chief Administrative Law Judge
GERALD FECHER, Director, SMCS

Proceedings:

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

Since June 13th, 2024, 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 Krantz to close the June 13th, 2024 Public Meeting.

Assents: Banks, Krantz, Paulson, Nazarian, Krausse

Motion Adopted - 5 to 0

Chair Banks officially opened the Public Meeting of October 10th, 2024.

Adoption of Minutes:

Chair Banks introduced the newest Board Member, Mark Krausse who was appointed on June 21st, 2024 by Governor Newsom and was sworn in on September 30th, 2024.

Chair Banks asked the Board Members if they wished to discuss any potential corrections or move to approve the minutes of the June 13th, 2024 meeting.

Motion: Motion by Member Nazarian and seconded by Member Krantz to approve the minutes of the June 13th, 2024, Public Meeting.

Assents: Banks, Krantz, Paulson, Nazarian
Abstain: Krausse

Motion Adopted - 4 to 0

Public Comment

No public participants requested to comment on issues outside of the agenda; however, written comments were submitted by Brian Crowell. To request a copy of the written comments, please email PERBInfo@perb.ca.gov

Executive Staff Reports:

Joshua Golka, Executive Director, stated that the Board's average time to issue a decision once all the filings are final is at 17 weeks for the current fiscal year and the 2023 – 2024 fiscal year average was 19 weeks. This is illustrated in a graph posted on PERB's website under *News Items*.

Mr. Golka then announced three staff having milestone anniversaries: Administrative Law Judges Jana Ellingson-Kegel and Camile Binon are celebrating five years with PERB. Information Technology Manager Polly Vaitayanonta is also celebrating five years with PERB. Mr Golka then announced since the last Board Meeting, Eric Cu has been designated as the Interim Chief Administrative Law Judge.

In legislative matters, Mr. Golka stated Governor Newsom signed Assembly Bill 2889 which gives PERB jurisdiction over injunctive relief requests at the City of Los Angeles Employee Relations Board and the Los Angeles County Employee Relations Commission. The statue goes into effect January 1, 2025.

Regarding rulemaking, Mr. Golka announced since the last Board meeting, two sets of regulations became effective: the transit regulations package went into effect on October 1 and before that the special remedies regulations related to civil penalties under Government code section 3550 went into effect on July 1. Mr. Golka stated there are six additional rulemaking efforts in various stages of development, with Transit II, which adds Santa Cruz Metro and the Santa Clara Valley Transportation Authority to PERB's recently updated transit regulations, the next one that will head to the formal rulemaking process though the Office of Administrative Law.

Mr. Golka finished his report stating work is underway on the draft final report on the Case Processing Efficiency Initiative. The report will describe the efforts undertaken to implement the Board's priorities under the Initiative, the internal and external activities, and the outcomes and impact that resulted from this

Initiative. Mr. Golka expects that the draft report will be before the Board for review and approval at the December Board meeting.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 76 filled positions plus a .25 retired annuitant and two vacancies.

Ms. Davey announced Matt Eliaser, a new hire as IT Associate in the IT unit. Ms. Davey announced one promotion – Chris Pereira who was promoted to Accountant Trainee.

Ms. Davey stated in Human Resources, PERB has completed its language survey and is wrapping up the results. Ms. Davey then stated CalHR has implemented a new Hiring Above Minimums (HAMs) process for all state departments. In the future, PERB will be able to consider HAMs for Attorney classifications, but the ALJ and Conciliators are no longer approved to receive HAMs as a result of the change.

Ms. Davey gave an update on the San Fransico Regional Office on-going construction project. It is estimated that move in will be Spring 2025.

Ms. Davey stated the monthly budget freeze reports ended as of June 2024 and PERB is working through the Fall budget letter drills. PERB has completed the Year-End closing process, and 2023-2024 fiscal year financial statement have been submitted.

Ms. Davey stated for the budget, there is a balance of $61,039.

Lastly, Ms. Davey stated IT has finished a laptop refresh for all outdated laptops and are working on the ePERB public portal updates with the new regulations, and a new camera system has been installed for the Los Angeles Regional Office.

Chair Banks thanked the Board and Ms. Davey for their commitment to bringing IT staff back in house and not relying on contractors. Chair Banks asked why the HAMs were only for Attorney classifications and not ALJs and Conciliators. Ms. Davey stated due to the strength of numbers in departments statewide submitting the HAM request exemptions for Attorney classifications

to CalHR. Ms. Davey believed there would be a lag due to budget shortfall but is hopeful that ALJs and Conciliators will be able to take advantage of HAMs on a later date.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that in June to September, the Office of the General Counsel received 213 new unfair practice charges. While in February through May, the Office of the General Counsel received 227 new unfair practice charges.

In June to September, the General Counsel's Office completed 195 case investigations compared to 205 case investigations completed in February through May.

In June to September, the General Counsel's Office issued 103 complaints and dismissed 44 charges which compares to 92 complaints issued and 43 dismissed in the February to May period.

The average time for disposition of UPCs is 136 days through June to September as compared to 124 days through February to May.

The current active caseload has ticked up to 265 cases from 237.

Regarding factfinding requests, the General Counsel's Office had received four requests in the June to September period as compared to nine in the February to May period.

Representation petitions are at 23 during the June to September period, compared to 40 received in the February to May period.

Mr. De La Torre reported on three requests for injunctive relief, five new litigation matters, and four final case determinations. He provided the details and status of each case.

Finally, Mr. De La Torre gave a staffing update and reported that Supervising Attorney Ron Pearson left PERB and accepted a promotion with CalHR. Senior Regional Attorney James Coffey has been promoted to Attorney Supervisor at the Sacramento Regional Office.

Report - Division of Administrative Law

Eric Cu, Interim Chief Administrative Law Judge, gave a staffing update and reported that Jeff Edwards and Valerie Racho were both promoted to Senior Administrative Law Judge. Valerie Racho was also appointed as Interim Deputy Chief Administrative Law Judge. Mr. Cu also reported that Dexter Rappleye was hired as a limited-term Administrative Law Judge. Lastly, Mr. Cu reported that Shawn Cloughesy retired as Chief Administrative Law Judge on July 31, 2024.

For Case Processing, Mr. Cu stated that cases continue to be set three to 3-1/2 months out from the informal. The number of cases pending issuance of a written proposed decision is at 25 and 66 cases are scheduled for a formal hearing in the June to September period, totaling to 91 active cases. This number is slightly higher than the February to May period which had 32 cases pending issuance of a written proposed decision and 56 cases scheduled for formal hearing, totaling to 88 active cases.

Mr. Cu then gave case processing data from 2022 and 2023 in the June to September period, which came out to 104 active cases in 2023, and 113 active cases in 2022. Lastly, Mr. Cu provided pre pandemic data from 2019, which came out to 89 active cases.

For Formal Hearings, Mr. Cu stated from the June to September period there were 104 days of hearings held, while in the February to May period there were 127 days of hearings held. Mr. Cu also provided formal hearing data from 2022 and 2023 in the June to September period. In 2023, there were 91 days of hearings held and 2022 there were 150 days of hearings held.

Regarding Proposed Decisions, Mr. Cu stated from the June to September period, 22 were issued compared to 19 issued during the February to May period. Mr. Cu stated in 2022 and 2023, 23 proposed decisions were issued. The average time to issue a Proposed Decision from the date of submission to the issuance of the Proposed Decision is 98 days. Mr. Cu. compared this to 2023, where the average time was 101 days and in 2022, the average time was 163 days to issue a proposed decision.

Lastly, Mr. Cu stated that the 2024-2025 Fiscal Year Exceptions Rate is currently 40% while the updated 2023-2024 Fiscal Year Exceptions Rate is 43%. In addition, Mr. Cu provided data in a 6-month interval going back three

years to show a longer-term trend. In the past 6 months the exceptions rate was 53%, the past 12 months the exceptions rate was 48%, the past 18 months the exceptions rate was 44%, the past 24 months the exceptions rate was 44%, and lastly in the past 36 months the exceptions rate was 42%.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, Director of SMCS, extended a warm welcome to Member Mark Krausse and stated he looks forward to working with him.

Mr. Fecher gave a staffing update, SMCS Mediator and Conciliator Jason Motsick was hired at PERB on August 12, 2024.

Regarding Case Processing, Mr. Fecher stated during August and September SMCS has 137 active cases, 130 active cases during June and July, and finally 117 active cases during April and May. Cases opened during August and September was 57, cases opened during June and July was 86, and finally cases opened during April and May was 94. Cases closed during August and September was 57, cases closed during June and July was 86, and cases closed during April and May was 112.

For Representation and Election, there are 4 current matters which is lower than usual.

For Program Administration, Mr. Fecher reported that, in August and September, SMCS received a total of $4,600 in chargeable services from the Arbitration Panel Program and $345 from the Conflict Resolution in the Workplace program, totaling to $4,945. In June and July, SMCS received $12,200 in chargeable services from the Arbitration Panel Program and $0 from the Conflict Resolution in the Workplace program. Finally in April and May, SMCS received $3,300 in chargeable services from the Arbitration Panel Program and $0 from the Conflict Resolution in the Workplace program.

SMCS continues to receive several requests for training and facilitation, including Interest Based Bargaining. As a result of outreach efforts, parties are reaching out sooner before the conflict gets into impasse. Mr. Fecher reported SMCS is receiving numerous mediation requests and pre-impasse requests. Mr. Fecher also reported that the outreach efforts have continued through organizations such as the Labor and Employment Relations Association and

SMCS will continue to do so to reach out to constituents, both labor and management.

Finally, Mr. Fecher reported that most cases are conducted in person but are still offering video-based mediation developed during the pandemic.

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

Assents: Banks, Krantz, Paulson, Nazarian, Krausse

Motion Adopted - 5 to 0

Old Business

Chair Banks appointed a subcommittee consisting of himself and Member Krantz to work with staff to draft and review the proposed regulations under the Legislature Employer-Employee Relations Act. Chair Banks stated it is planned to provide a report for the upcoming December Board Meeting for review.

Samantha Corbin, an advocate for We Said Enough, which is an organization formed in 2017 due to outcry from leaders in politics in California to address systemic abuse, harassment, and discrimination in the workplace spoke before the Board stating she is still hearing from California legislative staff regarding ongoing issues including improper workplace conduct, retaliation, and pay equity. She stated all issues could benefit from a strong union in the Capitol. Ms. Corbin states that she is hopeful the Legislature will subside from editing AB 1. Ms. Corbin thanked the Board for implementation of the aforementioned regulations.

New Business

There was no new business.

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 December 12, 2024, in the Los Angeles Regional Office.

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

Motion: Motion by Member Krausse and seconded by Member Nazarian to recess the meeting to continuous closed session.

Assents: Banks, Krantz, Paulson, Nazarian, Krausse

Motion Adopted - 5 to 0

APPROVED AT THE PUBLIC MEETING OF:

December 12, 2024

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