STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIATION, Charging Party, v. STATE OF CALIFORNIA (DEPARTMENT OF PERSONNEL ADMINISTRATION), Respondent.	Case No. SA-CE-1648-S PERB Decision No. 2013-S March 13, 2009

Appearances: Suzanne L. Branine, Staff Counsel, for California Correctional Peace Officers Association; Paul M. Starkey, Labor Relations Counsel, for State of California (Department of Personnel Administration).

Before Rystrom, Chair; Wesley and Dowdin Calvillo, Members.

DECISION

DOWDIN CALVILLO, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the California Correctional Peace Officers Association (CCPOA) of a Board agent's dismissal (attached) of its unfair practice charge. The charge alleged that the State of California (Department of Personnel Administration) (DPA) violated the Ralph C. Dills Act (Dills Act)[1] by failing to provide CCPOA with requested information relevant to ongoing negotiations for a successor memorandum of understanding. The Board agent dismissed the charge for lack of timeliness and failure to state a prima facie case.

The Board has reviewed the entire record in this case, including but not limited to, the original and amended unfair practice charge, DPA's position statements, the Board agent's warning and dismissal letters, CCPOA's appeal and DPA's response thereto. Based on this

[1]The Dills Act is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references are to the Government Code.

review, the Board finds the Board agent's warning and dismissal letters to be a correct statement of the law and well reasoned, and therefore adopts them as the decision of the Board itself,[2] as supplemented by the discussion below.

DISCUSSION

New Argument on Appeal

CCPOA argues for the first time on appeal that the statute of limitations should be equitably tolled in this case. DPA responds that the Board cannot consider this argument because it was not presented to the Board agent. Specifically, DPA relies on PERB Regulation 32635(b),[3] which states in full: "Unless good cause is shown, a charging party may not present on appeal new charge allegations or new supporting evidence." DPA also relies on the Board's use of PERB Regulation 32635(b) in State of California (Department of Food and Agriculture) (1994) PERB Decision No. 1071-S (Food and Agriculture), to decline to consider an allegation of failure to provide requested information raised for the first time on appeal.

Neither PERB Regulation 32635(b) nor the Food and Agriculture decision apply here. As the Board stated in South San Francisco Unified School District (1990) PERB Decision No. 830, "[t]he purpose of PERB Regulation 32635(b) is to require the charging party to present its allegations and supporting evidence to the Board agent in the first instance, so that the Board agent can fully investigate the charge prior to deciding whether to issue a complaint or dismiss the case." CCPOA's amended charge alleged that the charge was timely and presented evidence in support of that allegation. CCPOA's equitable tolling argument on appeal is merely a new

[2]In Long Beach Community College District (2009) PERB Decision No. 2002 (Long Beach CCD II), the Board held that the statute of limitations is not an affirmative defense but an element of the charging party's prima facie case. In light of this holding, we do not adopt the statement on page 2 of the attached warning letter that "The statute of limitations is an affirmative defense which has been raised by the State in this case."

[3]PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

legal argument on the issue of the timeliness of the charge, based on the same evidence presented to the Board agent. Thus, the equitable tolling argument does not constitute a new allegation or new evidence and PERB Regulation 32635(b) does not preclude the Board from considering the argument.

Equitable Tolling

The Board agent found that the six-month statute of limitations period for filing the charge began on June 25, 2007, when CCPOA received DPA's response to its information request. Because the only evidence presented by CCPOA that it had reasserted its information request after that date was inadmissible under Evidence Code sections 703.5 and 1119, the Board agent concluded that the charge filed on December 28, 2007, was untimely. CCPOA argues that if PERB is going to apply these Evidence Code sections "in such a draconian manner," it must reshape its equitable tolling doctrine "to protect and encourage parties who participate in mediation under Government Code section 3518." Hence, CCPOA asks the Board to extend its equitable tolling doctrine to apply to mandatory impasse mediation under the Dills Act.

In Long Beach CCD II, the Board set forth the limited circumstances in which equitable tolling will apply: "the statute of limitations is tolled during the period of time the parties are utilizing a non-binding dispute resolution procedure if: (1) the procedure is contained in a written agreement negotiated by the parties; (2) the procedure is being used to resolve the same dispute that is the subject of the unfair practice charge; (3) the charging party reasonably and in good faith pursues the procedure; and (4) tolling does not frustrate the purpose of the statutory limitation period by causing surprise or prejudice to the respondent."[4] The Board noted that

[4]The Board adopted the doctrine of equitable tolling for cases arising under the Dills Act in State of California (Department of Water Resources) (1981) PERB Order No. Ad-122-S. Though PERB has not applied the doctrine in a Dills Act case since the

the "same dispute" requirement "prevents prejudice to the respondent because the initiation of the dispute resolution procedure puts the respondent on notice of the dispute that is the subject of the unfair practice charge." (Id., citing Victor Valley Community College District (1986) PERB Decision No. 570.) Without a "same dispute" requirement, equitable tolling would subject a respondent to "stale claims" of which the respondent had no notice, thereby eviscerating the purpose of the statute of limitations. (Id.; see Addison v. State of California (1978) 21 Cal.3d 313, 317 [146 Cal.Rptr. 224] (Addison) ["[T]he primary purpose of statutes of limitation is to prevent the assertion of stale claims by plaintiffs who have failed to file their action until evidence is no longer fresh and witnesses are no longer available."].)

Expanding the scope of equitable tolling as CCPOA urges would effectively eliminate the "same dispute" requirement because mediation pursuant to Dills Act section 3518 does not provide the respondent with notice of the subject of the unfair practice charge. In Long Beach CCD II, non-binding mediation was the final step in a grievance process. Thus, by filing a grievance over a unilateral change in classified employees' workweek, the union gave the employer notice of the subject of the later unfair practice charge. In contrast, Dills Act section 3518 provides for non-binding mediation as a mandatory impasse procedure. Filing a request for Section 3518 mediation with PERB does not put the other party on notice of a dispute that could result in an unfair practice charge. At most, it lets the other party know that the requesting party believes there is an impasse in negotiations. Allowing equitable tolling when the parties participate in statutory impasse procedures is therefore contrary to the standard the Board has established for adequately protecting a respondent from the assertion of

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doctrine was reinstated in Long Beach Community College District (2003) PERB Decision No. 1564 (Long Beach CCD I), in light of the virtually identical statute of limitations provisions in the Dills Act and the Educational Employment Relations Act (cod. at Gov. Code sec. 3540 et seq.), we conclude the doctrine, as recently refined in Long Beach CCD II, is applicable in Dills Act cases.

stale claims. Consequently, we decline to extend PERB's equitable tolling doctrine to encompass mandatory impasse mediation pursuant to Dills Act section 3518.

As an alternative to the extension of the equitable tolling doctrine, CCPOA argues that equitable tolling is appropriate in this case under existing law. More specifically, CCPOA asserts equitable tolling is appropriate here under the test set forth in Addison, which formed the basis for the Board's equitable tolling test in Long Beach CCD I. Because the Board's formulation of the equitable tolling test in Long Beach CCD II is merely a refinement of the test set forth in Long Beach CCD I, we apply the Long Beach CCD II test to the facts alleged in the charge.

Upon review of the original and amended charge, we find that CCPOA has failed to establish any of the required criteria for equitable tolling. First, the mediation procedure in which CCPOA and DPA participated is not contained in a written agreement negotiated by the parties. Instead, it was mandated by Dills Act section 3518. Second, the parties did not mediate over CCPOA's information request but over the terms of a successor memorandum of understanding. Thus, the mediation was not "used to resolve the same dispute that is the subject of the unfair practice charge." Third, CCPOA did not pursue mediation initially and in fact opposed DPA's request for impasse determination by PERB. Nonetheless, the charge does not indicate that CCPOA participated in mediation in bad faith. Finally, there are no allegations in the charge, other than the inadmissible statements to and by the mediator, that CCPOA reasserted its information request to DPA after June 25, 2007. Thus, because DPA did not have notice of the subject of the unfair practice charge until the charge was filed, tolling in this case would prejudice DPA.

For the foregoing reasons, we find that the statute of limitations was not equitably tolled while the parties engaged in mandatory impasse mediation pursuant to Dills Act

section 3518. Accordingly, the Board agent properly dismissed the charge for lack of timeliness.

ORDER

The unfair practice charge in Case No. SA-CE-1648-S is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Chair Rystrom and Member Wesley joined in this Decision.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

PUBLIC EMPLOYMENT RELATIONS BOARD

Office of the General Counsel
1031 18th Street
Sacramento, CA 95811-4124
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March 24, 2008

Suzanne L. Branine, Staff Legal Counsel
California Correctional Peace Officers Association
755 Riverpoint Drive, Suite 200
West Sacramento, CA 95605-1634

Re: California Correctional Peace Officers Association v. State of California (Department of Personnel Administration)
Unfair Practice Charge No. SA-CE-1648-S
DISMISSAL LETTER

Dear Ms. Branine:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on December 28, 2007. The California Correctional Peace Officers Association (CCPOA) alleges that the State of California (Department of Personnel Administration) (State or DPA) violated the Ralph C. Dills Act (Dills Act)[1] by failing to provide "complete and truthful" information in response to CCPOA's information request of April 6, 2007. The charge addresses both a response to said information request made by DPA on June 25, 2007, and allegations that DPA failed to respond further despite CCPOA's communications that it found the June 25 response to be unresponsive.

CCPOA was informed by the attached Warning Letter dated February 13, 2008, that the above-referenced charge did not state a prima facie case. You were advised that, if there were any factual inaccuracies or additional facts that would correct the deficiencies explained in that letter, CCPOA could amend the charge. You were further advised that, unless the charge was amended to state a prima facie case or withdrawn prior to February 20, 2008, the charge would be dismissed.

CCPOA's subsequent request for additional time in which to file an amended charge was granted, and a First Amended Charge was filed on February 26, 2008.

Discussion

The February 13, 2008 Warning Letter first informed CCPOA that, to the extent the charge alleged that the State violated section 3519, subsection (c) by failing to respond to the April 6, 2007 information request prior to seeking an impasse determination, the charge was filed more than seven months after the complained-of conduct and was thus untimely filed. (Dills Act

[1] The Dills Act is codified at Government Code section 3512 et seq. The text of the Dills Act and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

section 3514.5, subsection (a)(1); Los Angeles Unified School District (2007) PERB Decision No. 1929.) The First Amended Charge does not provide any new information or argument that would change this conclusion, and thus the allegation that the State violated Dills Act section 3519, subsection (c) is dismissed.

The February 13, 2008 Warning Letter also informed CCPOA that a prima facie violation of Dills Act section 3519, subsection (e) was not demonstrated, for the following reasons:

> The charge does not reveal how or in what way, or as to which categories of information requested, the State's written response was inadequate or incomplete. Further, except for the statement that CCPOA sought clarification through the mediator, there is no indication in the charge that CCPOA communicated to DPA that the response was incomplete.

(Emphasis in original.)

In its First Amended Charge, CCPOA does provide additional information as to which specific items it found DPA's June 25 response deficient. In addition to providing this additional detail, the First Amended Charge, in relevant part, adds the following allegations to its statement of the charge:

> Specifically, during mediation sessions on August 8, August 9, August 21 and August 22, 2007, representatives of CCPOA communicated to DPA through the mediator that the June 25, 2007 response was incomplete, inaccurate and that CCPOA required more information to meaningfully participate in mediation. At each session, the mediator stated that he would seek further information from DPA in response to CCPOA requests. At each session, CCPOA representatives renewed their requests for information in light of the mediator's assurances that he would encourage DPA to provide further information. CCPOA relied on the mediator's assurances that he was seeking and hoped to obtain the cooperation of DPA in providing the needed information. It was not until the final mediation sessions on August 21 and 22, 2007 that representatives of CCPOA learned through the mediator that DPA had no intention of providing the requested information.
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> . . . . . .
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> The repeated requests by CCPOA to receive information on the issues described . . . stand alone as new requests when viewed in the context of which each request occurred. CCPOA made requests during the August mediation sessions and was told by

> the mediator that he was seeking DPA's cooperation and that he was attempting to procure the information from DPA. Thus CCPOA did not become aware of DPA's firm refusal to provide the requested information until the mediation sessions of August 21 and 22.

For the following reasons, the First Amended Charge fails to state a prima facie violation of Dills Act section 3519, subsection (e). CCPOA's charge still relies upon the assertion that alleged deficiencies were discussed by the mediator, the mediator reported discussing the information requests with DPA, and the mediator ultimately reported that DPA would not provide additional information. Missing from this account is the requisite "who, what, when, where and how" of an unfair practice. (PERB Regulation 32615(a)(5)[2]; State of California (Department of Food and Agriculture) (1994) PERB Decision No. 1071-S.) CCPOA does not provide any facts to establish CCPOA communicated directly with DPA, as opposed to through the mediator, during the relevant time frame concerning its dissatisfaction with the response to its information request.[3] (State of California (Departments of Personnel Administration and Transportation) (1997) PERB Decision No. 1227-S; Oakland Unified School District (1983) PERB Decision No. 367.)

Sole reliance on alleged communications made through and by the mediator is not sufficient to state a prima facie case for the following reason. The mediator in this matter was appointed, following PERB's approval of the State's request for impasse determination/appointment of a mediator in PERB Case No. SA-IM-3041-S, by the California State Mediation and Conciliation Service (CSMCS). Labor Code sections 65 and 66 provide for the conduct of mediation in labor disputes by CSMCS-employed mediators. Labor Code section 65 further provides that Evidence Code section 703.5, as well as Chapter 2 (commencing with section 1115) of Division 9 of the Evidence Code, shall apply to mediation conducted pursuant to Labor Code section 65.

Evidence Code section 703.5, in relevant part, reads as follows:

> No person presiding at any judicial or quasi-judicial proceeding, and no arbitrator or mediator, shall be competent to testify, in any subsequent civil proceeding, as to any statement, conduct, decision, or ruling, occurring at or in conjunction with the prior proceeding, except as to a statement or conduct that could (a)

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[2] PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

[3] CCPOA also omits from the instant charge any reference to the letters sent by CCPOA to DPA on August 22 and 31, 2007 that addressed, in part, the request for information, as well as DPA's response letter of September 4, 2007. These documents were considered in dismissing a refusal to provide information allegation raised in PERB Case No. SA-CE-1621-S. CCPOA's appeal of that dismissal is now pending before the Board itself.

> give rise to civil or criminal contempt, (b) constitute a crime, (c) be the subject of investigation by the State Bar or Commission on Judicial Performance, or (d) give rise to disqualification proceedings under paragraph (1) or (6) of subdivision (a) of Section 170.1 of the Code of Civil Procedure.

Further, Evidence Code section 1119 provides in relevant part that, except as otherwise expressly provided,

> (a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.
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> . . . . . .
>
> (c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

It would be, at best, inconsistent with the statutory provisions cited above to rely upon assertions as to alleged communications made with and by the mediator as the requisite evidence to support issuance of a complaint in this matter.

Therefore, I am dismissing the charge based on the facts and reasons set forth above as well as in the February 13, 2008 Warning Letter.

Right to Appeal

Pursuant to PERB Regulations, you may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal. (Regulation 32635(a).) Any document filed with the Board must contain the case name and number, and the original and five (5) copies of all documents must be provided to the Board.

A document is considered "filed" when actually received during a regular PERB business day. (Regulations 32135(a) and 32130; see also Government Code section 11020(a).) A document is also considered "filed" when received by facsimile transmission before the close of business together with a Facsimile Transmission Cover Sheet which meets the requirements of Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Regulations 32135(b), (c) and (d); see also Regulations 32090 and 32130.)

The Board's address is:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95811-4124
(916) 322-8231
FAX: (916) 327-7960

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal. (Regulation 32635(b).)

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Regulation 32140 for the required contents.) The document will be considered properly "served" when personally delivered or deposited in the mail or deposited with a delivery service and properly addressed. A document may also be concurrently served via facsimile transmission on all parties to the proceeding. (Regulation 32135(c).)

Extension of Time

A request for an extension of time, in which to file a document with the Board itself, must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party. (Regulation 32132.)

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Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Sincerely,

TAMI R. BOGERT
General Counsel

By _____
Les Chisholm
Division Chief

Attachment

cc: Paul M. Starkey

PUBLIC EMPLOYMENT RELATIONS BOARD

Office of the General Counsel
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Sacramento, CA 95811-4124
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February 13, 2008

Suzanne L. Branine, Staff Legal Counsel
California Correctional Peace Officers Association
755 Riverpoint Drive, Suite 200
West Sacramento, CA 95605-1634

Re: California Correctional Peace Officers Association v. State of California (Department of Personnel Administration)
Unfair Practice Charge No. SA-CE-1648-S
WARNING LETTER

Dear Ms. Branine:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on December 28, 2007. The California Correctional Peace Officers Association (CCPOA) alleges that the State of California (Department of Personnel Administration) (State or DPA) violated the Ralph C. Dills Act (Dills Act)[1] by failing to provide "complete and truthful" information in response to CCPOA's information request of April 6, 2007.

CCPOA is the exclusive representative of State Bargaining Unit 6 – Corrections. The most recent memorandum of understanding (MOU) between CCPOA and the State expired by its own terms as of June 30, 2006. By letter dated April 13, 2006, DPA notified CCPOA of its readiness to commence bargaining toward a successor MOU.[2]

On April 6, 2007, CCPOA responded to a revised package offer by DPA by submitting an information request, listing 21 categories of information, "in an effort to understand the entirety of the state's conceptual proposals."

On May 10, 2007, the State filed with PERB a Request for Impasse Determination/ Appointment of Mediator (PERB Case No. SA-IM-3041-S). CCPOA opposed the request, but the request was approved and a mediator was appointed on May 17, 2007. As of May 10, the State had not responded to the April 6 information request.

On June 25, 2007, DPA delivered an eight-page response to CCPOA, through the mediator, concerning each of the 21 categories of information listed in the April 6 request. The charge

[1] The Dills Act is codified at Government Code section 3512 et seq. The text of the Dills Act and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

[2] Notice has been taken of the contents of PERB's files concerning a related impasse case, PERB Case No. SA-IM-3041-S.

alleges that, upon receipt of the response, CCPOA "determined it to be grossly inadequate and incomplete." The charge further alleges that on June 25, "and into July 2007," CCPOA sought the mediator's assistance in "clarifying the many unclear responses" but that the mediator "later" told CCPOA that the State would not provide further information.

Discussion

CCPOA alleges the State violated Dills Act section 3519 by failing and refusing to provide "complete and truthful" information. The exclusive representative is entitled to all information that is "necessary and relevant" to the discharge of its duty of representation. (Stockton Unified School District (1980) PERB Decision No. 143.) PERB uses a liberal standard, similar to a discovery-type standard, to determine relevance of the requested information. (California State University (1986) PERB Decision No. 613-H.) Failure to provide such information is a per se violation of the duty to bargain in good faith and, under the Dills Act, violates either Government Code section 3519(c) or 3519(e).[3] However, there is no violation when an employer partially complies with the request for information and the union fails to communicate its dissatisfaction, or to reassert or clarify its request. (State of California (Departments of Personnel Administration and Transportation) (1997) PERB Decision No. 1227-S; Oakland Unified School District (1983) PERB Decision No. 367.)

Alleged Violation of Dills Act section 3519(c)

As discussed above, DPA filed its request for the appointment of a mediator on May 10, 2007, PERB determined that the parties were at impasse on May 17, 2007, and the instant charge was not filed until December 28, 2007. Thus, to the extent the charge alleges that the State violated section 3519(c) by failing to respond to the April 6 information request prior to seeking an impasse determination, the charge was filed more than seven months after the complained-of conduct and is untimely and must be dismissed. Dills Act section 3514.5(a)(1) prohibits PERB from issuing a complaint with respect to "any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge." The statute of limitations is an affirmative defense which has been raised by the State in this case. (Long Beach Community College District (2003) PERB Decision No. 1564.) A charging party bears the burden of demonstrating that the charge is timely filed. (cf. Tehachapi Unified School District (1993) PERB Decision No. 1024; State of California (Department of Insurance) (1997) PERB Decision No. 1197-S.)

Alleged Violation of Dills Act section 3519(e)

CCPOA further alleges that the State violated the Dills Act through its June 25, 2007 response, which CCPOA determined was "grossly inadequate and incomplete." The charge does not

[3] It is necessary under applicable precedent to analyze conduct before and after the initiation of statutory impasse procedures as separate unfair practice allegations. (See Moreno Valley Unified School District v. Public Employment Relations Board (1983) 142 Cal.App.3d 191 and, for example, Temple City Unified School District (1990) PERB Decision No. 841.)

reveal how or in what way, or as to which categories of information requested, the State's written response was inadequate or incomplete. Further, except for the statement that CCPOA sought clarification through the mediator, there is no indication in the charge that CCPOA communicated to DPA that the response was incomplete.

PERB Regulation 32615(a)(5) requires, inter alia, that an unfair practice charge include a "clear and concise statement of the facts and conduct alleged to constitute an unfair practice." The charging party's burden includes alleging the "who, what, when, where and how" of an unfair practice. (State of California (Department of Food and Agriculture) (1994) PERB Decision No. 1071-S, citing United Teachers-Los Angeles (Ragsdale) (1992) PERB Decision No. 944.) Mere legal conclusions are not sufficient to state a prima facie case. (Ibid.; Charter Oak Unified School District (1991) PERB Decision No. 873.) For the reasons discussed above, the present charge fails to state a prima facie case under these standards.

The charging party's burden also includes alleging facts showing that the unfair practice charge was timely filed; i.e., that the alleged unfair practice occurred no more than six months prior to the filing of the charge. (Los Angeles Unified School District (2007) PERB Decision No. 1929; City of Santa Barbara (2004) PERB Decision No. 1628-M.) PERB is prohibited from issuing a complaint with respect to any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge. (Dills Act section 3514(a)(1); see also Coachella Valley Mosquito and Vector Control District v. Public Employment Relations Board (2005) 35 Cal.4th 1072.) The limitations period begins to run once the charging party knows, or should have known, of the conduct underlying the charge. (Gavilan Joint Community College District (1996) PERB Decision No. 1177.) Here, the State's response to the information request was received by CCPOA on June 25, 2007, and the charge was not filed until December 28, 2007. While the charge references subsequent interaction with the mediator regarding the information request, and the fact that the State has not provided an additional response to the April 6 request, these vague allegations are insufficient to demonstrate that the charge is timely filed.

Conclusion

For these reasons the charge, as presently written, does not state a prima facie case. If there are any factual inaccuracies in this letter or additional facts that would correct the deficiencies explained above, please amend the charge. The amended charge should be prepared on a standard PERB unfair practice charge form, clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must have the case number written on the top right hand corner of the charge form. The amended charge must be served on the respondent's representative and the original proof of service must be filed with PERB. If I do not receive an

amended charge or withdrawal from you before February 20, 2008, I shall dismiss your charge. If you have any questions, please call me at the above telephone number.

Sincerely,

Les Chisholm
Division Chief