

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



DORA BARNES,

Charging Party,

v.

SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 1021,

Respondent.

Case No. SF-CO-332-M

PERB Decision No. 2419-M

April 10, 2015

Appearances: Dora Barnes, on her own behalf; Weinberg, Roger & Rosenfeld by Kerianne R. Steele, Attorney, for Service Employees International Union, Local 1021.

Before Martinez, Chair; Winslow and Banks, Members.

DECISION<sup>1</sup>

MARTINEZ, Chair: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Charging Party Dora Barnes (Barnes) of a dismissal (attached) of her unfair practice charge by the Office of the General Counsel. The charge, as amended, alleges that Respondent Service Employees International Union, Local 1021 (Local 1021) violated the Meyers-Milias-Brown Act (MMBA)<sup>2</sup> by breaching its duty of fair representation when it formed a new chapter to represent certain social worker classifications currently included in its bargaining unit. The Office of the General Counsel dismissed the charge for failure to state a prima facie case.

<sup>1</sup> PERB Regulation 32320, subdivision (d), provides in pertinent part: "Effective July 1, 2013, a majority of the Board members issuing a decision or order pursuant to an appeal filed under Section 32635 [Board Review of Dismissals] shall determine whether the decision or order, or any part thereof, shall be designated as precedential." Having met none of the criteria enumerated in the regulation, the decision herein has not been designated as precedential. (PERB regs. are codified at Cal. Code Regs., tit. 8, sec. 31001 et seq.)

<sup>2</sup> The MMBA is codified at Government Code section 3500 et seq.

The Board has reviewed the file in its entirety, including the initial and amended unfair practice charges and Local 1021's position papers in response thereto. Based on this review, the Board finds that the warning and dismissal letters accurately describe the charge allegations, and that the warning and dismissal letters are well-reasoned and consistent with applicable law.<sup>3</sup>

The Board finds that the appeal raises no issues warranting the Board's further consideration of this matter.<sup>4</sup> Barnes is in a bargaining unit represented by Local 1021. Barnes does not allege facts demonstrating that Local 1021 failed in its duty to fairly represent her or her bargaining unit's interests in its negotiations over, or administration or enforcement of, the governing collective bargaining agreement. Barnes's core complaint is that Local 1021 created a new chapter in which social worker members of Local 1021 are assigned representation by department rather than by classification, thereby splitting representation of the social worker classification. The social worker members of Local 1021 from Barnes's

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<sup>3</sup> In referring to the rule stated in *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, that the charging party should include sufficient facts alleging the "who, what, when, where and how" of an unfair practice, the following refinement on that rule bears mention:

By rejecting a formulaic application of the oft-quoted statement from *Ragsdale* ("who, what, when [sic] where and how"), we do not suggest that such matters need not be considered in assessing the prima facie case. Rather, we favor an analysis which focuses on the elements of the prima facie case, and the sufficiency of the charging party's allegations in respect to each of those elements.

(*National Union of Healthcare Workers* (2012) PERB Decision No. 2249a-M, p. 6, fn. 5.)

<sup>4</sup> In its review of the dismissal, the Board declines to consider new factual allegations contained in Barnes's appeal. (See PERB Reg. 32635, subd. (b) ["Unless good cause is shown, a charging party may not present on appeal new charge allegations or new supporting evidence."].)

department are not included in this newly formed chapter. They remain in the pre-existing chapter.

A union's internal structure and organization is a fundamental internal union affair over which PERB has no jurisdiction. (See *Service Employees International Union, Local 99 (Kimmitt)* (1979) PERB Decision No. 106.) PERB will intervene only when union activities "have a substantial impact on the relationships of unit members to their employers." (*Ibid.*) A union's procedure under its bylaws for forming new chapters is unreviewable by PERB under this standard. Accordingly, the Board hereby adopts the warning and dismissal letters of the Office of the General Counsel as the decision of the Board itself.<sup>5</sup>

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<sup>5</sup> In addition, 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. (*Coachella Valley Mosquito & Vector Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4<sup>th</sup> 1072.) At the charge processing stage, the charging party bears the burden of demonstrating that the unfair practice charge is timely. (*Los Angeles Unified School District (Brown)* (2014) PERB Decision No. 2359.) The statute of limitations for new allegations contained in an amended charge begins to run based upon the filing date of the amended charge unless the new allegations in the amended charge relate back to the original allegations in the initial charge. (*County of Santa Barbara*) (2012) PERB Decision No. 2279-M.) An amended charge relates back to the initial charge only when it clarifies facts originally alleged in the initial charge or adds a new legal theory based on facts originally alleged in the initial charge. (*Ibid.*)

Here, the allegations of the initial charge concern the creation of the new chapter. As noted in the dismissal letter, with the exception of including a copy of a petition to join the newly created chapter, Barnes's first amended charge "focuses exclusively on her attempts to pursue new work opportunities as a social worker with the City." The first amended charge neither clarifies facts originally alleged in the initial charge nor adds a new legal theory based on facts originally alleged in the initial charge. The first amended charge, therefore, does not relate back to the initial charge. The first amended charge was filed on November 5, 2014. The limitations period for new allegations contained in the first amended charge extends back six months to May 5, 2014. The allegations contained in the first amended charge relate to events occurring between January 29, 2014, when Barnes submitted an application for a new social worker position, and March 28, 2014, when the City and County of San Francisco's Director of the Department of Human Resources was directed by letter from the Executive Officer of the Civil Service Commission to process Barnes's March 27, 2014, request for re-evaluation of her raw score. These allegations fall outside the six-month limitations period.

ORDER

The unfair practice charge in Case No. SF-CO-332-M is hereby DISMISSED  
WITHOUT LEAVE TO AMEND.

Members Winslow and Banks joined in this Decision.

**PUBLIC EMPLOYMENT RELATIONS BOARD**

San Francisco Regional Office  
1330 Broadway, Suite 1532  
Oakland, CA 94612-2514  
Telephone: (510) 622-1019  
Fax: (510) 622-1027



December 9, 2014

Dora Barnes

Re: *Dora Barnes v. Service Employees International Union Local 1021*  
Unfair Practice Charge No. SF-CO-332-M  
**DISMISSAL LETTER**

Dear Ms. Barnes:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on February 14, 2014. Dora Barnes (Charging Party) alleges that the Service Employees International Union Local 1021 (Local 1021 or Respondent) violated the Meyers-Milias-Brown Act (MMBA or Act)<sup>1</sup> by breaching its duty of fair representation.

Charging Party was informed, in the attached Warning Letter dated October 15, 2014, that the above-referenced charge did not state a prima facie case. The letter advised that if there were any factual inaccuracies or additional facts that would correct the deficiencies explained in the letter, then the charge should be amended. Charging Party was further advised that unless the charge was amended to state a prima facie case or withdrawn on or before October 28, 2014, the charge would be dismissed.

On November 3, 2014, Charging Party filed a First Amended Charge.

**THE INITIAL CHARGE AND PERB'S WARNING LETTER**

As explained in more detail in the attached Warning Letter, Charging Party's initial charge alleged that Local 1021 breached the duty of fair representation by excluding CalWORKs social workers from the newly formed Family Protective Services Chapter. The new chapter included other social workers employed by the City and County of San Francisco's (City) Human Services Agency (HSA). The CalWORKs social workers, conversely, remained in Local 1021's preexisting San Francisco Human Services Agency Chapter. The charge alleges that the CalWORKs social workers should be in the new Family Protective Services Chapter because they serve many of the same clients as the social workers now in the chapter. The charge further asserts that Local 1021 excluded the CalWORKs social workers from the new chapter because it wished to organize members by division, and also did not desire to negotiate

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<sup>1</sup> The MMBA is codified at Government Code section 3500 et seq. PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of the MMBA and PERB Regulations may be found at [www.perb.ca.gov](http://www.perb.ca.gov).

issues relating to all social workers together. According to the charge, the Charging Party and the other CalWORKs social workers will suffer from deskilling, job-duty changes, harassment, and elimination of promotional opportunities as a result of being excluded from the new Family Protective Services Chapter.

The charge also alleged that Local 1021 breached its duty of fair representation by refusing to comply with a dissenting member's request to review petition signatures in support of the new Family Protective Services Chapter, and also by failing to respond to Charging Party's phone calls and e-mail messages concerning the possible inclusion of CalWORKs social workers in the new chapter.

The attached October 15, 2014 Warning Letter informed Charging Party that the charge did not allege a prima facie case for a violation of the duty of fair representation. The Warning Letter stated that the initial charge failed to allege facts demonstrating that Local 1021's actions both: (1) had a significant impact on Charging Party's relationship with her employer so to allow PERB to interfere in the union's internal affairs; and (2) were without a rational basis or devoid of honest judgment. (*Service Employees International Union, Local 99 (Kimmitt)* (1979) PERB Decision No. 106; *International Association of Machinists (Attard)* (2002) PERB Decision No. 1474-M.)

#### **FACTS ALLEGED IN THE FIRST AMENDED CHARGE**

Charging Party's First Amended Charge focuses exclusively on her attempts to pursue new work opportunities as a social worker with the City.

On January 29, 2014, Charging Party submitted an application for an entry level position as an Adult Protective Service Worker.

The relevant job announcement stated that all applicants must have previously obtained any combination of training and experience that would provide the required knowledge and abilities for this classification. The First Amended Charge suggests that a typical way for an applicant to meet these requirements is by having: a Master's Degree in social work, counseling, gerontology, or related field, in conjunction with, at least two semesters of supervised field work or six months of post baccalaureate work experience in providing direct services to clients.

In her application, Charging Party included proof of both her Bachelor of Science Degree in Gerontology, and her Master's Degree in Gerontology.

In February 2014, the City, through Richard Hodgkinson, senior program analyst, rejected Charging Party's application on the ground she did not possess the minimum educational requirements. Specifically, the City found that Charging Party's graduate degree only required completion of 33 units and that a necessary component of this application was the applicant's completion of a 45 or 67 unit graduate program.

Charging Party appealed the City's initial rejection on the grounds that her educational background and work experiences qualified her to apply for this position. Charging Party asserts that she is qualified because she has undergraduate and graduate level degrees in gerontology, various state certifications related to caring for the elderly, and 8 years of work experience as a CalWORKs social worker at HSA. Her time as a CalWORKs social worker has allowed Charging Party to gain experience interviewing, assessing, counseling, advocating and developing service plans for a wide variety of needy clients.

The City subsequently rejected Charging Party's appeal. The charge alleges that the City's rejection of Charging Party's application must be due to her exclusion from the Family Protective Services Chapter because she otherwise possessed the necessary qualifications to apply. Charging Party alleges that the City, through Hodgkinson "went to great lengths" to reject her application.

### DISCUSSION

As discussed in the October 15, 2014 Warning Letter, Charging Party has the burden to allege sufficient facts to show that the union's actions (1) had a significant impact on Charging Party's relationship with her employer so to allow PERB to interfere in the union's internal affairs; and (2) were without a rational basis or devoid of honest judgment. (*Service Employees International Union, Local 99 (Kimmett)*, supra, PERB Decision No. 106; *International Association of Machinists (Attard)*, supra, PERB Decision No. 1474-M.)

Here, Charging Party's primary allegation is that Local 1021 breached its duty of fair representation by excluding the CalWORKs social workers from the new Family Protective Services Chapter. Even if it is assumed that the First Amended Charge's allegation that the City denied the application because of Charging Party's exclusion from the new Family Protective Services Chapter significantly impacted this employee's relationship with the City, Charging Party still does not state a prima facie case. Both the initial charge and the First Amended Charge are devoid of facts demonstrating how Local 1021's decision to exclude the CalWORKs social workers from the Family Protective Services Chapter was without rational basis or devoid of honest judgment. As such, the allegation that Local 1021 failed to include the CalWORKs social workers in the new chapter does not constitute a prima facie claim for a violation of the duty of fair representation.

The initial charge also alleged that Local 1021 breached its duty of fair representation by refusing to comply with a dissenting member's requests to review signatures in support of the Family Protective Services Chapter, and by not responding to Charging Party's phone calls and e-mail messages concerning possible ways to include the CalWORKs social workers. As stated in the October 15, 2014 Warning Letter, these allegations cannot constitute violations of the duty of fair representation because they lack attendant facts showing that Local 1021's actions had a significant impact on the Charging Party's relationship with the City.

The First Amended Charge does not state any new facts related to these two allegations. Thus, Charging Party's allegations that Local 1021 refused to comply with a dissenting member's

requests to review signatures, and failed to respond to Charging Party's phone calls and e-mail messages do not constitute prima facie violations of the duty of fair representation.

In the First Amended Charge, Charging Party also alleges that the City improperly calculated her educational credits for the purposes of her application for the job of Adult Protective Service Worker. To the extent that Charging Party alleges wrongful conduct by the City, such allegations cannot be considered within the instant unfair practice charge against the exclusive representative—a different and separate party. (*Ventura County Community College District* (2009) PERB Decision No. 2082; *Chula Vista Elementary School District* (2004) PERB Decision No. 1647.) Accordingly, these allegations appear irrelevant to the instant charge.

For the above reasons and those contained in the October 15, 2014 Warning Letter, Charging Party's allegations fail to state a prima facie case and are hereby dismissed.

#### Right to Appeal

Pursuant to PERB Regulations,<sup>2</sup> Charging Party 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. (Cal. Code Regs., tit. 8, § 32635, subd. (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. (Cal. Code Regs., tit. 8, §§ 32135, subd. (a) and 32130; see also Gov. Code, § 11020, subd. (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 PERB 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. (Cal. Code Regs., tit. 8, § 32135, subds. (b), (c) and (d); see also Cal. Code Regs., tit. 8, §§ 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

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<sup>2</sup> PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of PERB's Regulations may be found at [www.perb.ca.gov](http://www.perb.ca.gov).

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. (Cal. Code Regs., tit. 8, § 32635, subd. (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 Cal. Code Regs., tit. 8, § 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. (Cal. Code Regs., tit. 8, § 32135, subd. (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. (Cal. Code Regs., tit. 8, § 32132.)

Final Date

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

Sincerely,

WENDI L. ROSS  
Acting General Counsel

By \_\_\_\_\_  
Jeremy Zeitlin  
Regional Attorney

Attachment

cc: [Kerianne R. Steele]

**PUBLIC EMPLOYMENT RELATIONS BOARD**

San Francisco Regional Office  
1330 Broadway, Suite 1532  
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October 13, 2014

Dora Barnes  
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Re: *Dora Barnes v. Service Employees International Union Local 1021*  
Unfair Practice Charge No. SF-CO-332-M  
**WARNING LETTER**

Dear Ms. Barnes:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on February 14, 2014. Dora Barnes (Charging Party) alleges that the Service Employees International Union Local 1021 (Local 1021 or Respondent) violated the Meyers-Milius-Brown Act (MMBA or Act)<sup>1</sup> by denying her the right to fair representation.

**FACTS AS ALLEGED**

Charging Party is a CalWORKs social worker employed by the City and County of San Francisco's Human Services Agency (HSA). Local 1021 is her exclusive representative.

On January 23, 2014, the formation of a new Local 1021 chapter for HSA employees was announced. The chapter, known as the Family Protective Services Chapter, comprises approximately 500 HSA employees working in the Family & Children Services group and the Adult Protective Services group. The new Family and Protective Services Chapter does not include Charging Party and 14 other CalWORKs social workers at HSA. Instead, the CalWORKs social workers remain in the existing Local 1021 San Francisco Human Services Agency Chapter even though they serve many of the same clients as the social workers within the Family & Children Services and the Adult Protective Services groups do.

Local 1021 only included employees from Family & Children Services and Adult Protective Services in the new chapter because it wished to organize members by division, rather than classification, pay, or job duties. The decision to exclude CalWORKs social workers from the new chapter also apparently stemmed from Local 1021's wish to not negotiate issues related to all HSA social workers together.

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<sup>1</sup> The MMBA is codified at Government Code section 3500 et seq. PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of the MMBA and PERB Regulations may be found at [www.perb.ca.gov](http://www.perb.ca.gov).

Charging Party alleges that the exclusion of the CalWORKs social workers from the new Family Protective Services Chapter will lead to HSA supervisors targeting these employees for “deskilling,” job-duty changes, harassment, and elimination of promotion opportunities due to them not being represented by the same chapter as other similarly skilled and classified social workers. Charging Party alleges that this exclusion impairs CalWORKs social workers’ chances for promotion because the supervisors are biased toward them. Charging Party alleges that these supervisors are biased because they allegedly helped form the new Family Protective Services Chapter with Local 1021.<sup>2</sup>

Since the creation of the new chapter, Local 1021’s Executive Board has also not complied with the requests by Local 1021 Human Services Agency chapter president Sin Yee Poon to review petition signatures in favor of the new chapter.<sup>3</sup> In addition, Local 1021 Field Representative Supreet Pabla has not returned Charging Party’s calls or e-mail messages despite Pabla’s earlier assurance that Local 1021 was looking into a way to include the CalWORKs social workers in the new chapter.

### **POSITION OF RESPONDENT**

Local 1021 filed a verified position statement in response to this charge on March 26, 2014. In its response, Local 1021 primarily asserts that the creation of the new Family Protective Services Chapter concerns an employee organization’s internal affairs, and thus cannot be reviewed by PERB. Local 1021 also claims that the responses its Executive Board and Field Representative Pabla gave to the respective requests for petition signatures and information were appropriate.<sup>4</sup>

### **DISCUSSION**

#### **I. Charging Party’s Burden**

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 should include sufficient facts 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

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<sup>2</sup> The charge mentions that HSA supervisors participated in forming the new Family and Protective Services Chapter within Local 1021, but does not provide any facts concerning what this participation was.

<sup>3</sup> Poon opposed creating the Family Protective Services Chapter.

<sup>4</sup> Local 1021 further claims that even if its responses to these requests were improper, they were still not violations of the duty of fair representation.

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.)

## II. Duty of Fair Representation

In order for a charge to state a prima facie case for the violation of the duty of fair representation, the charging party must first show that PERB may interfere with the internal affairs of an employee organization. (*Service Employees International Union, Local 99 (Kimmitt)* (1979); *California State Employees Association (Hackett)* (1993) PERB Decision No. 1012-S.)<sup>5</sup> It is well established that PERB will only interfere in the internal affairs between an employee organization and its members when it is shown that there is a significant impact upon the member's relationship with his or her employer. (*Stationary Engineers Local 39 (May)* (2010) PERB Decision No. 2098-M; *Service Employees International Union Local 1292 (Marriott, et al.)* (2008) PERB Decision No. 1956-M.) Speculative allegations about the effects of an employee organization's internal decisions on the relationship between its members and their employer do not constitute the necessary significant impact. (*Ibid.*)

Next, to state a prima facie case for the violation of the duty of fair representation under the MMBA, a charging party must, at a minimum, include an assertion of facts from which it becomes apparent in what manner the exclusive representative's action or inaction was without a rational basis or devoid of honest judgment. (*Attard, supra*, PERB Decision No. 1474-M.)<sup>6</sup> The burden is on the charging party to show how an exclusive representative abused its discretion, and not on the exclusive representative to show how it properly exercised its discretion. (*United Teachers – Los Angeles (Wylor)* (1993) PERB Decision No. 970.)

Based on the facts alleged, the charge does not state a prima facie case that Local 1021's decision to exclude the CalWORKs social workers from the new Family and Protective Services chapter violated its duty of fair representation. First, Charging Party has not alleged any facts showing that Local 1021's decision to exclude the CalWORKs social workers significantly impacted these employees' relationship with HSA. While Charging Party does point to some harm that may occur if the new Family and Protective Services chapter does not represent the CalWORKs social workers, the charge fails to provide any facts showing that any of these harms have yet occurred. As such, the charge's allegations are only speculative and

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<sup>5</sup> The Board has determined that precedent defining the duty of fair representation under the other statutes administered by PERB is applicable to cases arising under the MMBA. (*International Association of Machinists (Attard)* (2002) PERB Decision No. 1474-M.)

<sup>6</sup> While the MMBA does not expressly impose a statutory duty of fair representation upon employee organizations, the courts have held that "unions owe a duty of fair representation to their members, and this requires them to refrain from representing their members arbitrarily, discriminatorily, or in bad faith." (*Hussey v. Operating Engineers* (1995) 35 Cal.App.4th 1213.)

do not establish the necessary significant impact on the relationship between the CalWORKs social workers and HSA. (*Marriot, supra*, PERB Decision No. 1956-M.)

Likewise, the allegations that Local 1021 representatives failed to provide the original petition signatures and respond to Charging Party's request for information also do not demonstrate any significant impact on the relationship between the CalWORKs social workers and HSA. (*Stationary Engineers Local 39 (May) (2010)* PERB Decision No. 2098-M [the manner, or lack, of communication between an employee and its members has no direct and substantial impact on the member's relationship with his or her employer].) Therefore, these allegations cannot serve as the basis for allowing PERB to interfere with the internal affairs of Local 1021.

Second, the charge does not allege any facts showing that Local 1021's decision to exclude the CalWORKs social workers from the new Family and Protective Services chapter was without a rational basis or devoid of honest judgment. (*Attard, supra*, PERB Decision No. 1474-M.) As a result, the charge fails to allege facts establishing a breach of Local 1021's duty of fair representation. (*Hussey, supra*, 35 Cal.App.4th 1213.)

For these reasons the charge, as presently written, does not state a prima facie case.<sup>7</sup> If there are any factual inaccuracies in this letter or additional facts that would correct the deficiencies explained above, Charging Party may 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 an authorized agent of 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 an amended charge or withdrawal is not filed on or before October 28, 2014,<sup>8</sup> PERB will dismiss your charge.

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<sup>7</sup> In *Eastside Union School District* (1984) PERB Decision No. 466, the Board explained that a prima facie case is established where the Board agent is able to make "a determination that the facts as alleged in the charge state a legal cause of action and that the charging party is capable of providing admissible evidence in support of the allegations. Consequently, where the investigation results in receipt of conflicting allegations of fact or contrary theories of law, fair proceedings, if not due process, demand that a complaint be issued and the matter be sent to formal hearing." (*Ibid.*)

<sup>8</sup> A document is "filed" on the date the document is **actually received** by PERB, including if transmitted via facsimile or electronic mail. (PERB Regulation 32135.)

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October 13, 2014  
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If you have any questions, please call me at the above telephone number.

Sincerely,

Jeremy Zeitlin  
Regional Attorney

JGZ:jz