STATE OF CALIFORNIA

DECISION OF THE

PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA FEDERATION OF INTERPRETERS, LOCAL 39000, THE NEWSPAPER GUILD-COMMUNICATION WORKERS OF AMERICA, Charging Party, v. REGION 2 COURT INTERPRETER EMPLOYMENT RELATIONS COMMITTEE & CALIFORNIA SUPERIOR COURTS OF REGION 2, Respondent.	Case No. SF-CE-11-I PERB Decision No. 2701-I March 16, 2020

Appearances: Weinberg Roger & Rosenfeld by Anne I. Yen, Attorney, for California Federation of Interpreters, Local 39000, The Newspaper Guild-Communication Workers of America; Wiley Price & Radulovich by Joseph E. Wiley and Monna R. Radulovich, Attorneys, for Region 2 Court Interpreter Employment Relations Committee and California Superior Courts of Region 2.

Before Banks, Shiners, and Krantz, Members.

DECISION

SHINERS, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions by the California Federation of Interpreters, Local 39000, The Newspaper Guild-Communication Workers of America (CFI) to the proposed decision of an administrative law judge (ALJ). The complaint, as amended, generally alleged that the Region 2 Court Interpreter Employment Relations

Committee (Committee) and the California Superior Courts of Region 2 (collectively Courts) violated the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act or Act)[1] by (1) refusing to meet and confer "regionally" over the impact of changes by local trial courts to employee pension contributions,[2] (2) unilaterally changing employee pension contribution rates, (3) refusing in successor contract negotiations to bargain over CFI's proposals related to employee pension contribution increases, and (4) repudiating collectively bargained grievance procedures.

The ALJ found these allegations lacked merit, concluding primarily that the Committee had lawfully delegated to the local trial courts the duty to negotiate over the impacts of changes to employee pension contributions, and thus was not required to bargain such impacts on a regional basis. The ALJ also concluded that the Committee had not refused to bargain over CFI's employee pension contribution proposals during successor contract negotiations, that the Courts had not unilaterally changed employee pension contribution rates, and that the Courts had not repudiated the parties' contractual grievance procedures.

Based on our review of the proposed decision, the entire record, and relevant legal authority in light of the parties' submissions, we affirm in part and reverse in part

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[1] The Court Interpreter Act is codified at Government Code section 71800 et seq. Unless otherwise specified, all statutory references herein are to the Government Code.

[2] Relevant provisions of the Court Interpreter Act and the parties' collective bargaining agreement use "impacts" to refer to the negotiable effects of a non-negotiable decision. Additionally, section 71801, subdivision (k) of the Act defines the individual superior court of each county as a "trial court." For consistency, we adopt this nomenclature for purposes of this decision.

the proposed decision. Specifically, we affirm the ALJ's conclusion that the Committee did not refuse to bargain over CFI's proposals related to employee pension contributions during the parties' 2016-2017 successor contract negotiations. Contrary to the ALJ, we further conclude that (1) the Committee violated its duty to meet and confer in good faith by refusing to engage in impact bargaining in response to CFI's February 11, 2016 request; (2) the Mendocino, San Mateo, and Santa Clara County Superior Courts violated their duty to meet and confer in good faith by unlawfully implementing changes to interpreters' pension contributions prior to completion of impact bargaining; (3) the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts violated their duty to meet and confer in good faith by repudiating the parties' contractual grievance procedure; and (4) the Santa Cruz County Superior Court violated its duty to meet and confer in good faith when it unilaterally eliminated a stipend that offset interpreters' pension contributions.

FACTUAL BACKGROUND

The Committee is a regional court interpreter employment relations committee within the meaning of Court Interpreter Act sections 71801, subdivision (h) and 71807, and PERB Regulation 32035, subdivision (a).[3] The Courts are trial courts within the meaning of Court Interpreter Act sections 71801, subdivision (k) and 71807, subdivision (a)(2), and PERB Regulation 32035, subdivision (b).

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

The Committee is composed of the Court Executive Officers (CEO) for each of the constituent trial courts in Region 2.[4] The Committee members select from among themselves a Committee Chairperson and an Administrative Chairperson. The Committee Chairperson presides over the Committee and serves as its representative in communications with employee organizations, while the Administrative Chairperson serves as the Committee's labor relations liaison and supports the Human Resources managers for each of the trial courts within the region, among other similar duties. During the relevant time period, Michael Yuen (Yuen), CEO of the San Francisco County Superior Court, served as the Committee Chairperson, and Kim Turner (Turner), CEO of the Mendocino County Superior Court, served as the Administrative Chair.

CFI is an employee organization within the meaning of Court Interpreter Act section 71801, subdivision (c); a recognized employee organization within the meaning of Court Interpreter Act section 71801, subdivision (g); and an exclusive representative within the meaning of PERB Regulation 32035, subdivision (c).

At all relevant times, Mary Lou Aranguren (Aranguren), a former court interpreter, was a CFI field representative and served as the chair of its bargaining team, amongst other statewide responsibilities. Anabelle Garay (Garay), also a CFI field representative, was a member of CFI's bargaining team during successor contract negotiations with the Committee in 2016-2017.

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[4] Region 2 encompasses the trial courts within the First and Sixth Appellate Districts, except for Solano County Superior Court. (§ 71807, subd. (a)(2).) This includes the trial courts of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, and Sonoma counties.

Background of the Court Interpreter Act

Prior to 2001, California's trial court employees were employees of the county in which each court was situated. In that year, the Trial Court Employment Protection and Governance Act (Trial Court Act)[5] converted court employees from county employment to employment by the courts themselves. As part of this transition, the Legislature determined that court employees should remain members of the county-administered retirement plan in which they were enrolled as county employees (i.e., the California Public Employees Retirement System (CalPERS), a system established under the County Employees Retirement Law of 1937, or a system established by other state law or a county charter), rather than participate in new local retirement plans at each individual court. Typical of many public employers at the time, the trial courts generally paid all or a portion of their employees' required contribution toward the cost of their pension benefits, a payment known as an employer-paid member contribution (EPMC).

In 2002, the Legislature enacted the Court Interpreter Act to establish a comprehensive system governing labor relations between trial courts and their interpreters. An initial purpose was to transition the trial courts from relying on independent contractors for interpretation services to having court employees perform those services. (§ 71802; Sen. Com. on Judiciary, Analysis of Sen. Bill No. 371 (2001-2002 Reg. Sess.) as amended Aug. 28, 2002.) When the Court Interpreters Act took effect in 2003, court interpreters became members of the same county-administered retirement plan as other employees at the same trial court.

[5] The Trial Court Act is codified at section 71600 et seq.

The Court Interpreter Act establishes four regional court interpreter employment relations committees, including the Region 2 Committee, with authority over employer-employee relations between each trial court within the region and the spoken language court interpreters the trial courts employ. (§ 71807.) These regions, and by association their regional committees, were established "[f]or [the] purposes of developing regional terms and conditions of employment for court interpreters and for collective bargaining with recognized employee organizations," such as CFI. (§ 71807, subd. (a).)

To achieve this purpose, the Legislature specifically mandated that each regional committee shall act as the trial courts' representative "in bargaining with a recognized employee organization." (§ 71809.) Any memorandum of understanding (MOU) approved by a regional committee is binding on the trial courts within the region. (§§ 71808, 71819.) Consequently, there is only one MOU for all court interpreters throughout each region.

The Court Interpreter Act requires the regional committee, "or those representatives as it may designate," to meet and confer over subjects within the scope of representation. (§ 71818.) The Act's definition of "meet and confer," however, appears to impose a bargaining obligation on trial courts as well, explaining "that *a trial court* or [regional committee] or those representatives it may designate, and representatives of a recognized employee organization, shall . . . meet and confer promptly upon request by either party . . . and . . . endeavor to reach agreement on matters within the scope of representation." (§ 71801, subd. (e), italics added.)

Section 71816 broadly defines the scope of representation as including "all matters relating to employment conditions and employer-employee relations, including, but not necessarily limited to, wages, hours, and other terms and conditions of employment." (§ 71816, subd. (a).) The Act excludes six specific subjects from the scope of representation that are the province of the trial courts. (§ 71816, subd. (b).) Though the six local topics are themselves irrelevant to the issue before us, the Act expressly provides that "[t]he impact" of any changes to these local topics affecting the wages, hours, and other terms and conditions of employment "shall be within the scope of representation" and identifies the regional committee as the sole party "required" to meet and confer over such impacts.[6] (§ 71816, subd. (c).)

Consistent with the Court Interpreter Act's "purpose[] of developing regional terms and conditions of employment," section 71808 adopts uniformity as the default position for court interpreters' compensation and other terms and conditions of employment. In what the parties colloquially refer to as the "uniformity requirement," the Act provides that "[c]ompensation shall be uniform throughout the region."[7] (§ 71808.) Section 71808 further provides that "[u]nless otherwise provided in a

[6] The Court Interpreter Act also excludes from the scope of representation a trial court's decision to cross-assign one or more of its court interpreter employees to perform spoken language interpretation services for another trial court. (§§ 71801, subd. (b); 71810, subds. (c) and (d).) However, "the impact of [non-negotiable] cross-assignments" is similarly within the scope of representation and the Act identifies the regional committee as the sole entity responsible to meet and confer with respect to such impacts. (§ 71810, subd. (d).)

[7] The Court Interpreter Act does not define "compensation." As the California Supreme Court has noted, the Legislature frequently uses "compensation" and "wages" interchangeably. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1104, fn. 6.) Here, the parties have interpreted "compensation" to mean wages, and we accept this interpretation for our purposes.

[MOU], other terms and conditions of employment shall be uniform throughout the region, *except that health and welfare and pension benefits may be the same as those provided to other employees of the same trial court*." (*Ibid.*, italics added.)

Encompassed in the conversion of trial court employees from county employment to employment by the courts themselves, the Legislature transferred primary funding responsibilities from the counties to the state. The Judicial Council of California participates in determining the state's annual allocation for court interpreter compensation across all four regions. Wages and the cost of health insurance and retirement benefits are covered by the statewide fund. After a decision is made as to the annual allotment for such expenditures, the trial courts submit funding requests to the Judicial Council for reimbursement from the funding pool. If the fund is overdrawn, the trial courts must use their own funds to cover the outstanding costs of interpreter services.

The Parties' Collective Bargaining Agreement

The Committee and CFI were parties to an MOU effective December 16, 2013, through September 30, 2016. In accordance with section 71808's uniformity requirement, the MOU provided court interpreters with a single base rate of pay.

MOU Article 23.E describes the court interpreters' retirement benefits. As allowed by section 71808, it contains a "me too" or parity clause linking the interpreters' pension benefits to those of other employees at the same trial court:

> "Each [court interpreter] of a local trial court shall be eligible to participate in the same retirement plan at the same benefit level as those non-management hourly represented employees of the local trial court.[8] The level of benefit

[8] The parties refer to this group of court employees as the "linked unit."

> shall include but not necessarily be limited to, eligibility, vesting, *employee contribution*, regular retirement date, benefit formula, etc." (Italics added.)

After describing the procedure to determine the linked unit when a trial court has two or more bargaining units of non-management employees, Article 23.E states: "The impact of any change in the [court interpreters'] retirement plan will be subject to meet and confer."[9]

For purposes of meeting and conferring "under this agreement," MOU Article 4, section 1 identifies the Committee Chairperson or his/her designee as the Committee's principle authorized agent for bargaining. For administering the terms and provisions of the MOU, Article 4, section 2 identifies the CEO at each trial court, or his/her designee, as the trial court's principle authorized agent.

MOU Article 13, section 1 contains the following zipper clause:

> "This MOU sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreement over these matters between the parties, whether formal or informal, are hereby superseded or terminated in their entirety.
>
> "Except as specifically provided herein, it is agreed and understood that the parties hereto reserve the right, upon mutual agreement, to meet and confer in good faith with respect to any subject or matter covered herein or with respect to any other matter within the scope of representation, during the term of this MOU.

[9] MOU Article 23.D similarly links the court interpreters' health, vision, dental, and other insurance benefits to linked units at each trial court and states that the impact of any changes to those insurance benefits will be subject to meet and confer requirements, further demonstrating the parties' efforts to incorporate section 71808 into the MOU.

> "Unless otherwise permitted by this MOU or required by law, no agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto and, if required, approved and implemented by the Region.
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> "The waiver of any breach, term or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions."

However, the parties acknowledge in Article 13, section 2 that during the term of the MOU "it may be necessary for the [trial] courts to make changes in policies, procedures or practices [not specifically covered by this agreement that may] affect[] the employees of the Unit." In such cases, the trial court must notify CFI of the proposed change "and the Region shall meet and confer with [CFI] over the impact of the proposed change . . . prior to implementation."

MOU Article 33 contains a similar exception to the zipper clause's bar on reopening the MOU: "All proposed amendments to local policies which pertain to interpreters and are within the scope of meet and confer . . . shall be reduced to written form and distributed by management to [CFI]. Representatives of the Court/Region and [CFI] shall meet and confer regarding the proposed change prior to its adoption."

MOU Article 9 contains a three-step grievance procedure culminating in binding arbitration to "resolve grievances arising under this MOU." A "grievance" is contractually defined as a dispute by one or more employees, or CFI, over "the interpretation, application, or enforcement of express terms of this MOU."

The grievance procedure recommends that an employee with a grievance first seek resolution through informal discussions with a supervisor. If the grievance is not resolved informally, the employee or CFI may pursue formal proceedings. Under the first step, written grievances must be filed within 20 business days after the occurrence or discovery of the matter on which the grievance is based for consideration by and a written response from "the designated [trial] court [m]anagement representative." Under Step 1, the management representative "will" meet with the grievant and union representative, if any, within 10 business days of receipt of the grievance and "shall respond in writing" within 10 business days after such meeting.

If the grievance is not resolved there, the grievant may file an appeal under the second step with the trial court's CEO, or the designated officer, within 10 business days after receipt of the management representative's written decision. Step 2 similarly requires that the parties "shall" meet within 10 business days of the appeal and the CEO or designee must provide a written decision within 10 business days thereafter. If the grievance remains unresolved, CFI may file a request for arbitration under the third step within 30 business days of receipt of the CEO's or designee's written decision. Alternatively, if the CEO or designee fails to provide a decision within the specified time limit, CFI may elect to refer the grievance for arbitration. The arbitrator's decision shall be final and binding on the parties.

Prior Arbitration Award Interpreting Article 23, Section E of the MOU

A dispute over Article 23.E arose in 2007. Labor negotiations between the Santa Cruz County Superior Court and Service Employees International Union,

Local 521 (SEIU) resulted in an MOU requiring, effective January 2008, that each bargaining unit member contribute the full employee share toward the applicable CalPERS retirement formula. In exchange, the trial court agreed to provide a one-time wage increase "to offset the additional payment towards the employee's share of the CalPERS retirement contribution."

CFI filed a grievance against the trial court in November 2007, alleging the court interpreters were entitled to the same offset provided to SEIU—their linked unit at the court—based on the parity clause in Article 23.E. In 2008, the court and CFI submitted the grievance to Arbitrator William E. Riker (Arbitrator Riker) for final and binding arbitration.

Arbitrator Riker found that Article 23.E assured CFI-represented employees they would not pay more in pension contributions than their linked unit, and thus ordered the court to provide them the full benefit of their parity clause, as follows:

> "[T]he interpreters are to benefit from any bargain struck between the Court and SEIU as related to health and welfare and/or pension benefits. It is at the insistence of the Employer that [CFI] is required to live with whatever the SEIU and Santa Cruz Superior Court agreed upon in their 2007-2010 MOU.
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> [¶ . . . ¶]
>
> **AWARD**
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> "The Employer shall apply that portion of the 3.75%, which is the amount of the offset SEIU members received under the 2007-2010 MOU in order to make the interpreters whole for the requirement, where effective January 2008 they have had to pay the 7% employee contribution to PERS. It may not be applied to a wage increase. Rather, it is to be applied to an alternative benefit such as, but not limited to, an extra holiday, reducing the workday/week, an alternative

> schedule or similar beneficial terms and conditions of employment that are equal to the value of the applicable percentage increase.
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> "At the request of the Union the arbitrator will retain jurisdiction to resolve any issues relating to the decision and award."

The parties were unable to agree on a way to implement the award and returned to Arbitrator Riker in accordance with his retained remedial jurisdiction. On June 6, 2009, Arbitrator Riker awarded a retroactive monetary "pension offset leave benefit" to continue for a period at least consistent with pension changes reflected in the then-operative MOU between SEIU and the trial court, with bargaining between CFI and the court to take place thereafter if either party wished to alter the pension stipend.[10] Though the MOU between SEIU and the court expired in October 2010, the court continued to pay the stipend to court interpreters through 2017, as discussed *post*.

Initial 2014-2016 Negotiations with Certain Region 2 Trial Courts over Changes to EPMC

Napa County Superior Court

By letter to Garay on August 25, 2014, Lisa Skinner (Skinner), Chief Financial Officer of the Napa County Superior Court, notified CFI that the linked unit had agreed to eliminate EPMC and employees were paying the full share of their pension contribution. Citing Article 23.E, Skinner informed CFI that, effective September 29, the court intended to eliminate EPMC for court interpreters and offered to negotiate the impacts of the change. By separate e-mail, Skinner provided Garay with records

[10] Unless otherwise specified, all references to the "Riker arbitration decision" herein are collectively to Arbitrator Riker's 2008 and 2009 decisions.

showing that the court and linked unit eliminated the EPMC on July 7, 2012, as part of their negotiations to extend their bargaining agreement. On September 12, 2014, Garay requested to meet and confer over the matter but, due to personal issues, she was not able to meet before the interpreters' increased pension contribution took effect on September 29. On September 16, with Garay's approval, court representatives met with the interpreters to inform them of the change in pension contribution amounts.

CEO Richard Feldstein (Feldstein), Skinner, and Garay exchanged additional communications later in 2014. Garay noted that the linked unit had received a 3.5 percent cost of living adjustment (COLA) during their negotiations in 2012 and asserted that the trial court was obligated to provide the same offset for CFI employees, citing the Riker arbitration decision.

On December 2, 2014, Feldstein rejected CFI's request, responding that the COLA was not related to the elimination of EPMC but to other circumstances surrounding trial court funding. Feldstein explained that he thought the trial court lacked "authority to increase the compensation paid to our interpreters" because of the uniformity requirement in section 71808. CFI did not engage in any further efforts to negotiate with Napa County Superior Court over this issue.

In February 2017, Garay asked Feldstein and Skinner if they had negotiated a side letter on the matter with her predecessor. Skinner responded by recounting the history described above.

Contra Costa County Superior Court

Prior to 2015, the Contra Costa County Superior Court had provided a 6.0 percent EPMC to its employees. On January 28, 2015, American Federation of State, County and Municipal Employees, Local 2700 (AFSCME)—the linked unit at this court—concluded economic reopener negotiations with the court for an agreement that provided a two-step, 1.75 percent (3.5 percent total) base pay increase as an offset for two 1.25 percent increases (2.5 percent total) in employee pension contributions.

On February 13, 2015, Contra Costa County Superior Court Human Resources Director Shannon Stone (Stone) provided a copy of the AFSCME tentative agreement to Garay and offered to "meet and discuss" the first phase of the EPMC reduction as it pertained to CFI based on the parity clause in Article 23.E. Garay requested additional information, which Stone provided. On March 20, Garay requested to meet and confer regarding the changes.

The trial court and CFI met three times in the spring of 2015. CFI asserted at two of the meetings that regional bargaining was the proper forum to address the changes. On April 25, the court offered to offset the increased employee pension contributions with eight additional hours of personal holiday credit and a $100 monthly match for employees choosing to participate in the court's deferred compensation plan. On May 6, CFI countered with increases in one-time and ongoing paid leave, with a cash-out option, similar to those provided to AFSCME members. The parties continued making movement until they executed a tentative agreement on June 24.

On December 18, 2015, Stone notified Garay that AFSCME and the trial court reached a subsequent tentative agreement bringing AFSCME-represented employees' EPMC "into full compliance with [the Public Employees' Pension Reform Act], effective the first pay date in January 2016."[11] Stone stated that the court did not intend to apply the same pension contribution requirements to court interpreters until February 1, 2016, to allow time to meet over the impacts of the change. CFI then requested to negotiate over the impacts of the latest change to EPMC.

In the course of bargaining, Stone agreed on several occasions to delay implementation of the change in EPMC. On May 25, 2016, the court proposed that the interpreters pay increased employee pension contributions effective July 1, offset by paid leave time with a cash-out option. The court's proposal included separate contingencies should the Committee and CFI reach a regional agreement before December 31 or thereafter. The court and CFI did not reach agreement during their local negotiations. Aranguren ultimately asserted that the interpreters should receive a wage increase to offset elimination of the EPMC and that CFI intended to request regional bargaining to achieve that result.

Stone testified the court was unable to offer increased wages because compensation is negotiated regionally. When the court learned in the summer of 2016 that its funding would not be affected adversely by the failure to eliminate the EPMC

[11] The Judicial Council and many trial courts interpreted an earlier signing statement by the Governor approving the state's budget to mean that courts which failed to control benefit costs, including EPMC, could be adversely affected by certain funding cuts, precipitating many trial courts' efforts to eliminate EPMC. Sometime in Fiscal Year 2016-2017, the courts learned their funding would not be cut if they failed to eliminate EPMC.

for interpreters, it agreed to postpone implementation of the second phase of the reduced EPMC.

Marin County Superior Court

After notice of a proposed elimination of EPMC by Marin County Superior Court, Aranguren and the court's representative met on January 8 and February 3, 2016. CFI stated its desire to address the issue through regional bargaining and the parties agreed to place the local bargaining in abeyance.

CFI's Demand for Regional Bargaining over EPMC Impacts

On February 11, 2016, by letter to Region 2 Committee Chairman Yuen, Aranguren requested "regional level" negotiations based on proposed reductions in the EPMC at the Contra Costa and Marin County Superior Courts. Aranguren noted that CFI had informed both courts that it would seek regional bargaining. She also wrote that CFI had reserved its right to negotiate this same issue with Napa County Superior Court when it implemented the change and added that similar changes were anticipated at the San Mateo and Santa Clara County Superior Courts.

On March 9, 2016, Yuen responded that after discussing the matter with the other CEOs, the Committee believed Article 23.E's language, coupled with the parties' past practice, unambiguously demonstrated the parties' agreement that the impact of pension benefit changes be bargained locally at each trial court. On that basis, the Committee declined "to bargain regionally over these retirement contributions."[12]

[12] The Committee also agreed to meet and confer with CFI on a regional basis over impacts related to another issue and asked CFI to contact Administrative Chair Turner to schedule bargaining dates.

On March 30, 2016, counsel for CFI responded that the Court Interpreter Act requires that "terms and conditions be set and negotiated regionally, and that wages must be uniform." CFI also disputed Yuen's assertion that the MOU, or any bargaining history, demonstrated the parties' intent that bargaining over the "impact . . . [of] changes that occur during the term of the MOU" take place locally at each trial court.

On June 3, 2016, Aranguren sent a second letter to Yuen requesting regional bargaining over the proposed changes in pension contributions affecting employees in "multiple courts," noting the issue had arisen in additional courts since her February 2016 request.[13] She explained that several trial courts had invited her to negotiate the issue locally and she had already advised them of CFI's intent to pursue regional negotiations. Finally, she specified that CFI's regional bargaining request encompassed proposed changes at the Contra Costa, Marin, Mendocino, Napa, San Mateo, Santa Clara, and Santa Cruz County Superior Courts. There is no evidence Yuen responded to this request.

CFI's EPMC Grievance

On April 1, 2016, CFI filed a grievance with Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts on behalf of "all affected employees in Region 2 courts."[14] The grievance alleged the named trial courts had notified CFI that

[13] Aranguren included, in relevant part, the CEOs of Contra Costa, Marin, Mendocino, Napa, San Mateo, Santa Clara, and Santa Cruz County Superior Courts as carbon copy (cc:) recipients to apprise them of CFI's continued intent to address through regional bargaining the impact of increased pension contributions.

[14] CFI also named the Region 2 Committee in its grievance allegations but did not file the grievance with the Committee. Aranguren testified that she did not do so

they had or were in the process of changing the interpreters' EPMC. Citing Articles 13 and 23.E, as well as the Committee's March 9 refusal to bargain over those changes on a regional basis, CFI claimed it was contractually entitled to regional negotiations and offsetting benefits equivalent to those the courts had provided to linked units.

Contra Costa County Superior Court's Response

On April 12, 2016, Stone rejected the grievance on behalf of Contra Costa County Superior Court, asserting it was premature due to the absence of an implementation as to CFI unit members. Stone also noted the court's intent to resume impact bargaining after it earlier agreed in February 2016 to postpone negotiations so that CFI could pursue its request to bargain over this issue with the Region 2 Committee.

Aranguren responded on April 22, noting that CFI had earlier "proposed [to initiate the grievance] at [Step 2] and requested dates to meet" with the trial court CEO or designee. She requested Stone clarify whether the court was refusing to meet further on the matter and, if so, asked that the court treat Aranguren's letter as CFI's "formal appeal to arbitration." She added that the grievance had been filed to preserve CFI's right to protect against changes in cost-sharing until regional bargaining could take place.

Responding by letter on May 12, Stone declined to proceed to arbitration, expressing the court's belief that CFI's grievance against the Committee for refusing to engage in regional negotiations, as it related to holding the court separately

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because she generally believed Article 9 did not allow CFI to file grievances on a regional basis, though she noted that the Committee had occasionally responded on a trial court's behalf where asked to do so by the court.

responsible, was not a grievable matter. Stone stated that the court had no control over CFI's asserted right to meet and confer regionally with the Committee, explained that the court had never refused to meet and confer with CFI over the impacts of changes to employee pension contributions, and reiterated its willingness to engage in local negotiations, proposing several dates in May 2016 for such purposes.

Santa Clara County Superior Court's Response

On April 12, 2016, Santa Clara County Superior Court Human Resources Director Kathryn Brooks (Brooks) rejected the grievance because the court had not changed the interpreters' EPMC, nor was it in the process of implementing such changes, and the court thus denied that it had violated Articles 13 or 23.E. She confirmed the court would comply with Article 23.E should it reach agreement with the interpreters' linked unit over any changes to EPMC, with whom negotiations were then ongoing. There is no evidence that CFI responded to Brooks' letter rejecting the grievance.

Marin County Superior Court's Response

On April 13, 2016, James Kim (Kim), CEO of Marin County Superior Court, rejected the grievance, citing the trial court's earlier negotiations with CFI and CFI's later suspension of local bargaining on February 3 based on its assertion of the right to regional bargaining. Kim also noted that the court had not begun any process to implement changes to the interpreters' EPMC. Aranguren responded on April 22 requesting that Kim clarify whether the court was refusing to meet further over the grievance and, if so, asked that the court treat Aranguren's letter as CFI's "formal

appeal to arbitration."[15] As she had in her letter to Stone, Aranguren added that the grievance had been filed to preserve CFI's right to protect against changes in cost-sharing until regional bargaining could take place. Ultimately, the court never implemented any of the proposed changes to the interpreters' EPMC.

San Mateo County Superior Court's Response

On April 13, 2016, San Mateo County Superior Court Human Resources Director Ron Mortenson (Mortenson) rejected the grievance because the court had not notified CFI of any change to interpreters' EPMC. Aranguren responded on April 22, requesting that Mortenson clarify whether the court was refusing to meet further over the grievance and, if so, asked that the court treat Aranguren's letter as CFI's "formal appeal to arbitration."[16] She again added that the grievance had been filed to preserve CFI's right to protect against changes in cost-sharing until regional bargaining could take place.

Representatives of Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts never held any meetings with CFI over its grievance.

Region 2 Committee's Response

On April 13, 2016, Yuen responded to the grievance by letter. He did not dispute CFI's right, or lack thereof, to name the Committee in the grievance, though he noted CFI did not present it to the Committee. Nevertheless, he rejected the grievance on the Committee's behalf on the ground that his March 9 letter already

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[15] Unlike her letter to Stone, Aranguren did not indicate whether CFI had previously proposed that Marin County Superior Court initiate the grievance at Step 2.

[16] Aranguren again did not indicate whether CFI had previously proposed that San Mateo County Superior Court initiate the grievance at Step 2.

explained the Committee's position that Article 23.E establishes that bargaining should occur locally at each trial court and, therefore, no violation of the MOU had occurred.

Additional 2016 Trial Court Notifications to CFI Regarding EPMC Changes

Mendocino County Superior Court

Between April 27 and June 3, 2016, Mendocino County Superior Court CEO Chris Ruhl (Ruhl) notified CFI of the court's intent to increase pension contributions for the one interpreter employed by the court as a result of a change in the linked bargaining unit. The decision was to take effect during the first pay period of July 2016. Ruhl offered Aranguren several dates in June to meet and confer. In June, Ruhl and Aranguren exchanged e-mails in which Aranguren advised Ruhl of CFI's outstanding request for regional bargaining and stated that CFI was reserving its right to meet locally pending regional negotiations. During their communications, Aranguren shared with Ruhl her June 3, 2016 letter to Yuen requesting regional bargaining over the impact of increased pension contributions. (*Ante*, fn. 13.) The court ultimately implemented the changes to EPMC in October 2016.

San Mateo County Superior Court

On May 16, 2016, Mortenson notified Garay that the court had reached an agreement with the linked unit to eliminate the EPMC, among other issues, effective July 3, 2016. He invited CFI to meet and confer over the impacts of the change as to the CFI employees. CFI did not respond to the letter.

By letter dated July 26, Mortenson recounted two prior attempts on May 16 and June 2 to arrange meet and confer sessions. He acknowledged Aranguren had contacted him after the trial court's second attempt to arrange a meeting and informed

him that CFI intended to meet and confer on a regional level. Noting that the Committee was maintaining its position that the impacts of pension benefit changes were not subject to regional bargaining, he reaffirmed the court's willingness to engage in impact bargaining before implementation in October 2016. Although they eventually met in September 2016, CFI made no proposals and instead objected to the court's planned implementation of the EPMC changes while the Committee and CFI were simultaneously engaged in negotiations for a successor agreement, through which CFI was attempting to address the elimination of EPMC regionally. The court ultimately implemented the changes to the interpreters' EPMC in October 2016.

Santa Clara County Superior Court

On September 27, 2016, after the Committee and CFI commenced negotiations for a successor MOU, discussed *post*, Santa Clara County Superior Court General Counsel Lisa Herrick (Herrick) notified Garay of the linked bargaining unit's agreement to eliminate the EPMC and the court's intent to apply the same change to CFI unit members, and invited CFI to contact the court if it wanted to discuss the impacts of those changes. Aranguren asserted in an e-mail that the impacts of the change needed to be bargained regionally.

Herrick met with Aranguren and Garay on October 24, 2016. CFI offered no proposals. The parties agreed to a short delay in implementation of the increased pension contributions, which eventually occurred in two steps between November 2016 and February 2017.

Santa Cruz County Superior Court

Following the Riker arbitration decision and the expiration of its MOU with SEIU in 2010, discussed *ante*, the Santa Cruz County Superior Court continued to pay a "pension offset leave benefit" to court interpreters in the form of an annual monetary stipend until approximately June 2017. At that time, the court decided to eliminate the stipend because it determined that the stipend was no longer required under the terms of the Riker arbitration decision and informed CFI that it would stop payment, though it offered to meet and confer with CFI over the issue.

Court representatives and CFI met on July 11, 2017, to discuss the court's discontinuance of the stipend. At that time, CFI communicated its desire that the matter be addressed through regional bargaining and, to the extent the Committee refused to engage in such bargaining, informed the court that it intended to pursue the matter through the grievance procedure and the instant unfair practice charge. Garay then contacted Turner on June 21, 2017, to request bargaining at the regional level.[17]

On June 30, 2017, Turner reminded Garay of the Committee's position that "the current MOU" required that trial court benefits and retirement issues, including local pension offsets, be bargained locally, not regionally. Aranguren responded on CFI's behalf, notifying Turner that CFI intended to amend its unfair practice charge to include this issue.[18] In response on July 17, Turner confirmed that the Committee had

[17] At this time, the Committee and CFI had been engaged in successor MOU negotiations for slightly less than one year.

[18] At that time, the pending complaint alleged only that the Committee had refused in February and March 2016 to meet and confer "regionally" over the impact of changes to employee pension contributions and that the Courts had repudiated the parties' grievance procedures.

consistently rejected CFI's assertion of any regional bargaining requirement since March 2016, and acknowledged that PERB would resolve this question.

Aside from CFI's communications with the Committee, there is no evidence in the record that CFI filed a grievance against the Santa Cruz County Superior Court itself over the elimination of the stipend.

Successor MOU Negotiations

The parties commenced negotiations for a successor MOU on August 26, 2016. Richard Shiohira (Shiohira) was the Committee's chief spokesperson until Turner succeeded him in December 2016. Aranguren was the chief spokesperson for CFI; Garay was also on the bargaining team.

On August 26, 2016, CFI's initial proposal included a "pension equity adjustment" for employees at the Contra Costa, Marin, San Mateo, Mendocino, and Santa Clara County Superior Courts, where some local negotiations over the impacts of EPMC elimination had been attempted. The proposal was also intended to address these impacts at the Napa and Santa Cruz County Superior Courts, where local negotiations had not been attempted or had been abandoned. Under CFI's proposal, base wages would increase 7.8 percent to address the impact of the elimination of EPMC. CFI also made a separate proposal to increase wages.

On September 19, 2016, the Committee presented a comprehensive proposal addressing multiple issues. The Committee proposed a five-step wage scale, with each step 2 percent above the prior step, to replace the lone existing step in the expiring MOU. The Committee's proposal represented, approximately, an 8 to 10 percent wage increase over the life of the proposed agreement. Shiohira explained

that the wage step proposal was intended to address both historical wage inequities and the elimination of EPMC.

The Committee also proposed to amend Article 23.E to add language explicitly waiving CFI's rights to bargain over both a trial court's decision to change EPMC and the impacts thereof. The proposal would require that bargaining unit members "make the same retirement contributions [as the linked unit but] not receive any offsetting benefits."[19] Shiohira explained that the Committee wanted its wage step proposal to resolve all current and future EPMC issues, thereby eliminating any bargaining obligation over EPMC changes.[20] Aranguren responded that CFI did not believe it should have to trade resolution of EPMC issues for wage steps.

At the October 6, 2016 bargaining session, CFI reduced its proposed pension equity adjustment to 6.0 percent, and requested to negotiate EPMC elimination separately from successor MOU negotiations. The Committee responded it was not amenable to carving out EPMC issues from successor negotiations. Shiohira expressed concern that CFI's proposed pension equity adjustment would constitute a

[19] The proposal noted that it did not alter the Committee's position that the existing language required only local impacts bargaining.

[20] Aranguren and Garay testified the Committee never expressed at the bargaining table that its wage step proposal was intended to address the impact(s) of EPMC elimination by trial courts. Although the ALJ did not explicitly determine whether the Committee's witnesses were more credible than CFI's on this point, his conclusion that the Committee's wage step proposal was intended to be "a quid pro quo in exchange for elimination of any residual impacts issues" implicitly credited the Committee's witnesses. We find the record supports the ALJ's conclusion.

windfall to employees who had never received an EPMC.[21] Aranguren disagreed, believing those employees had suffered a historical disadvantage as a result of lacking an EPMC. Shiohira also expressed concern that CFI had based its proposal on the largest EPMC-related wage cut, which occurred at the Mendocino County Superior Court, a trial court that employed only one interpreter.[22]

On November 10, 2016, the Committee increased the gaps between its proposed five-step wage scale to 2.25 percent and maintained its earlier proposal regarding Article 23.E, in which it proposed to eliminate all bargaining over changes to EPMC. The Committee again stated the proposal was intended to address both wages and EPMC issues.

On December 9, 2016, CFI presented an Article 23 proposal that included a wage reopener to address impacts as to any pension contribution changes that were yet unknown. CFI noted its interest in automatically receiving the same wage adjustment or wage offsets granted to the linked units where increased pension contributions were implemented.

On December 18, 2016, the Committee sweetened its wage proposal with additional enhancements at the upper steps. Regarding Article 23.E, its proposal stated: "Region 2 maintains the position contained in its EPMC proposal of

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[21] Shiohira and Turner testified that, in preparation for this bargaining session, she estimated that more than 50 percent of the interpreters in Region 2 did not receive an EPMC.

[22] For the single court reporter in Mendocino, the trial court's October 2016 EPMC change amounted to a pay cut of 7.8 percent, mirroring CFI's August 26, 2016 proposal. Effects of EPMC cuts at other courts were lower, generally falling between approximately 2 percent and approximately 6 percent.

November 10, 2016." On December 20, CFI made another proposal seeking me-too language related to wage offsets for increased pension contributions.

The parties resumed bargaining on February 6, 2017, after a brief hiatus, with Turner now the Committee's chief spokesperson.[23] At this session, Turner reiterated the Committee's position that offsets to increased pension contributions must be bargained locally, not regionally. She also orally provided the pay increase percentages court interpreters would receive under CFI's pension equity adjustment proposal at the trial courts that already had eliminated EPMC. Aranguren responded that she did not believe the numbers were accurate and would look into the issue further.

On February 7, 2017, CFI made a proposal intended to resolve the dispute regarding regional and local bargaining over EPMC wage offsets. The proposal would amend MOU Article 22, containing the interpreters' wages and other compensation, to adopt the Committee's proposed five-step wage scale with 5 percent increments, as well as a new paragraph D, reading:

> "The parties agree that in accordance with Government Code 71808, uniform compensation within the Region is established by providing a uniform salary range, a maximum hourly rate, and uniform differentials and stipends pursuant to this Agreement, including but not limited to the half-day and dual language differentials.
>
> "The parties recognize, however, that health and welfare benefits vary from Court to Court within the Region, and other conditions may vary, including the cost-of-living and interpreter supply and demand.

[23] During the hiatus, Shiohira had taken a position with the City and County of San Francisco and, as a result, could no longer serve as the Committee's chief spokesperson.

> "The parties agree that local courts shall have the authority to make local adjustments above the salary range in section A of this Article, within the uniform compensation structure provided in this Agreement, to improve the equity and uniformity of overall compensation, and in response to local conditions.
>
> "A local court may apply an across the board adjustment above the base wage to address increases to employee benefit costs pursuant to meet and confer, or to provide interpreters a COLA, bonus or other wage adjustment provided to other employees of a local court.
>
> "An across the board recruitment and retention stipend above the base wage may be applied to interpreter unit members in a local court to assist courts in filling position vacancies and meeting language access needs.
>
> "Increases above the base wage established in this agreement shall not exceed the federal per diem rate, currently $52.25/per hour."

In response, Turner asked questions and said she would present the proposal to the Region 2 CEOs before the next bargaining session. She expressed concern that CFI's proposal, while creative, conflicted with the uniformity requirement in section 71808. At some point in their exchange, Aranguren stated there would be no violation if both parties agreed that the salary range would fulfill the uniformity requirement.

On February 15, 2017, the Committee further enhanced its wage proposal. In addition to increasing wages between the steps, existing employees would immediately advance to Steps 2 or 3 based on their hiring date. Regarding Article 23.E, its proposal again stated that the Committee would maintain its EPMC

proposal of November 10, 2016. Turner also said she had spoken with the CEOs and they were not in favor of CFI's Article 22 proposal because they believed it violated the uniformity requirement of section 71808.

The parties met again for bargaining on February 24, 2017. During further discussion of CFI's February 7 proposal concerning Article 22, Turner stated that the Committee's position on that proposal was "immutable" because the Committee believed that allowing individual trial courts to provide wage increases over and above the regional wage scale would violate the uniformity requirement in section 71808.[24]

After engaging in mediation in July 2017, the parties were able to agree upon a successor MOU on September 11, 2017, which ultimately provided a 21 percent wage increase over the life of the contract. That MOU has a three-year term that expires September 30, 2020. In the MOU, CFI explicitly reserved its right to litigate the instant unfair practice charge.

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[24] CFI excepts to the ALJ's finding that Aranguren testified Turner made her "immutable" statement as early as the parties' meeting on December 20, 2016. We agree with CFI that the weight of the evidence shows Turner made the statement during the parties' February 24, 2017 bargaining session.

CFI also excepts to the ALJ's finding that Turner made the "immutable" statement in relation to CFI's Article 22 proposal, not in reference to the Committee's position that pension contribution issues must be bargained locally. CFI relies on notes by CFI bargaining team member Katy Van Sant (Van Sant) that on February 24, 2017, Turner said the Committee's position on local impact bargaining was "immutable." Yet Van Sant's notes also state that the Committee was "not interested" in bargaining over CFI's Article 22 proposal and that its position was supported by "the law." Given the context in which the evidence shows Turner used the word "immutable," we agree with the ALJ that Turner was describing the Committee's position on CFI's Article 22 proposal.

DISCUSSION

The Board reviews exceptions to a proposed decision de novo. (*County of Santa Clara* (2019) PERB Decision No. 2629-M, p. 6.) Under this standard, we review the entire record and are free to make different factual findings and reach different legal conclusions than those in the proposed decision. (*City of Milpitas* (2015) PERB Decision No. 2443-M, p. 12.)

A. Refusal to Bargain over Impacts of Changes to Employee Pension Contributions

The amended complaint alleged that the Committee violated the Court Interpreter Act by refusing, on March 9, 2016 and June 30, 2017, to meet and confer with CFI over the impacts of various Region 2 trial courts' changes to employee pension contribution amounts.[25] The ALJ found no violation, reasoning that the Committee had designated the trial courts as its representative for impact bargaining over employee pension contribution changes. We disagree and find that the Committee violated the Act as alleged in the amended complaint.

To frame the issue before us, it is crucial to recognize several fundamental points that are not in dispute. First, section 71801, subdivision (e) states, in relevant part, "that a trial court or regional court interpreter committee or those representatives

[25] The Committee's June 30, 2017 refusal followed the Santa Cruz County Superior Court's decision earlier that month to eliminate a stipend it had been paying to its court interpreters since the Riker arbitration decision. CFI contacted Turner, the Committee's then-chief spokesperson in successor MOU negotiations, to request bargaining over this change at the regional level. Turner reiterated the Committee's position that the 2013-2016 MOU required local bargaining over pension offsets, and she asserted this remained the case as a matter of status quo until the parties reached a successor MOU. As a result, Turner refused to meet and confer with CFI over impacts of the Santa Cruz County Superior Court's decision, though the parties had been discussing EPMC issues during ongoing successor MOU negotiations.

it may designate, and representatives of a recognized employee organization, shall . . . meet and confer promptly upon request by either party . . . and . . . endeavor to reach agreement on matters within the scope of representation." Second, section 71808 mandates that wages "be uniform throughout the region" but allows pension benefits to "be the same as those provided to other employees of the same trial court." Third, the parties agree that MOU Article 23.E allows trial courts to change court interpreters' pension contribution amounts when those amounts are changed for the linked bargaining unit and entitles CFI to meet and confer over the impacts of such changes.

Even when an employer has no obligation to bargain over a particular decision, it must meet and confer over any foreseeable effects of the decision on matters within the scope of representation. (*County of Santa Clara* (2019) PERB Decision No. 2680-M, pp. 11-12.) In the typical case, there is no question that the employer who makes the non-negotiable decision is also the entity that must bargain over the decision's negotiable effects. Here, however, the Court Interpreter Act contemplates both regional bargaining by the regional committee and local bargaining by a trial court. The question before us, then, is which entity—the Committee or the trial court—was required to meet and confer over the impacts of the trial courts' non-negotiable decisions to reduce or eliminate EPMC?

1. Statutory Bargaining Obligation

We begin by ascertaining the scope of a regional committee's statutory obligation to meet and confer over the impacts of a trial court's non-negotiable decision. The fundamental task in statutory construction is ascertaining the Legislature's intent so as to effectuate the purpose of the law. (*Long Beach*

Community College District (2003) PERB Decision No. 1564, p. 10.) When interpreting a statute, "we begin with its plain meaning, affording the words their ordinary and usual meaning" and must give "meaning to every word of the statute, if possible, [to] avoid a construction that makes any word surplusage." (*Santa Clara Valley Water District* (2013) PERB Decision No. 2349-M, p. 16 (*Santa Clara District*).) If the terms of the statute are unambiguous, we assume the Legislature meant what it said. (*Region 4 Court Interpreter Employment Relations Committee and the Superior Court of California, County of Riverside* (2008) PERB Decision No. 1987-I, pp. 9 and 20, fn. 15.) Only where the plain meaning of the statute is unclear may we turn to other extrinsic sources to discern legislative intent, such as "maxims of construction, . . . the legislative history, and the wider historical [context] of the statute's enactment." (*Santa Clara District*, *supra*, PERB Decision No. 2349-M, pp. 16-17.)

Section 71801, subdivision (e) defines the "meet and confer" obligation as one in which "*a trial court* or regional court interpreter committee or *those representatives it may designate*" must negotiate with representatives of the recognized employee organization over matters within the scope of representation. (*Ibid.*, italics added.) The Court Interpreter Act thus appears to contemplate that in some circumstances a trial court will be the appropriate entity to meet and confer with CFI. Yet the Act does not specify what those circumstances would be.

Every other reference in the Act to the bargaining obligation refers to the regional committee alone. The four regions were established "[f]or [the] purposes of developing regional terms and conditions of employment for court interpreters and for collective bargaining with recognized employee organizations." (§ 71807, subd. (a).)

The regional committee "shall set terms and conditions of employment for court interpreters within the region, subject to meet and confer in good faith." (§ 71808.) Each regional committee acts as the trial courts' representative "in bargaining with a recognized employee organization," and an MOU ratified by a regional committee is binding on the trial courts within the region. (§§ 71809, 71819.) If the regional committee and the recognized employee organization fail to reach agreement, they may agree to the appointment of a mediator. (§ 71820.)

The Act also designates the regional committee as the proper entity to negotiate the impacts of certain non-negotiable decisions by a trial court. Section 71816, subdivision (b) excludes from the scope of representation six subjects that are reserved exclusively to the trial courts. Subdivision (c) provides that the regional committee—not the trial court making the decision—must meet and confer over the decision's impacts on subjects within the scope of representation. Similarly, the regional committee must meet and confer over the impacts of a trial court's decision to cross-assign one or more of its court interpreter employees to perform spoken language interpretation services for another trial court. (§ 71810, subd. (d).)

The Court Interpreter Act is thus, on its face, ambiguous with respect to whether the Committee is obligated to meet and confer over the impacts of changes to "health and welfare and pension benefits" or whether those impacts are a uniquely local issue that must be bargained with each trial court. Likewise, the legislative analyses of Senate Bill 371, which enacted the majority of the Act's provisions, do not address whether the impacts of trial courts' changes to "health and welfare and pension benefits" must be negotiated at the regional or local level.

The Committee urges us to resolve the ambiguity by finding, as the ALJ did, that the language in section 71801, subdivision (e) allowing the Committee to designate a bargaining representative permitted the Committee to delegate to the trial courts negotiations over the impacts of the courts' changes to pension benefits. While the Court Interpreter Act appears to generally permit the Committee to delegate its bargaining authority, a "specific delegation of bargaining [responsibility] may be unlawful if it is found to be inconsistent with the obligation to bargain in good faith." (*State of California (Department of Personnel Administration)* (1998) PERB Decision No. 1305-S, p. 8.) Here, because section 71808 requires that compensation be uniform throughout the region, trial courts necessarily lack the statutory authority to change interpreters' wages.[26] Consequently, allowing the Committee to delegate impact bargaining to a trial court under these circumstances would extinguish CFI's ability to negotiate for higher wages to offset increased employee pension contributions. Nothing in the Act indicates the Legislature intended this result.[27]

"When it appears the Legislature never considered the particular question raised in litigation, courts resort to analyzing the general purpose of the statute with

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[26] Indeed, while the Courts were willing to negotiate alternative benefits to offset the EPMC changes, they consistently declined to negotiate wage increases on the basis that compensation is subject to regional control under the Act's uniformity requirement.

[27] Even if we were to find that the Act permits delegation under these circumstances, we do not find the Committee made such a delegation here. While the Committee argues that it designated the trial courts as its representative to negotiate *on its behalf* over the impacts of EPMC elimination from the outset, none of the correspondence in the record indicates it did so. Rather, at the time CFI requested to bargain impacts, the Committee unreservedly took the position that Article 23.E required impact bargaining at the local level.

the goal of adopting the construction that best effectuates the purpose of the law." (*Merced Irrigation Dist. v. Superior Court* (2017) 7 Cal.App.5th 916, 938; see *Santa Clara District*, *supra*, PERB Decision No. 2349-M, p. 17 [statutes should be interpreted to promote, not defeat, the legislative purpose underlying the statutory scheme].) A loophole foreclosing CFI's ability to negotiate wage increases to offset increased pension contributions is incongruous with the Legislature's purpose in enacting a statutory scheme granting court interpreters the right to engage in collective bargaining over "wages, hours, and other terms and conditions of employment." Accordingly, we hold that under the Court Interpreter Act, a regional committee is required to meet and confer over the impacts of a trial court's change to employee pension contributions, and it may not delegate that obligation to the trial court.

The Committee does not deny that designating trial courts to negotiate over the impacts of EPMC reduction or elimination forecloses CFI's ability to negotiate a wage offset but argues this does not "rob" CFI of its bargaining rights because non-wage offsets, e.g., deferred compensation contributions or additional leave, are available at the local level. Section 71801, subdivision (e) generally imposes a duty to meet and confer in good faith on *all* matters within the scope of representation. Thus, a party cannot unilaterally determine that the existence of alternative negotiable benefits eliminates its obligation to at least consider in good faith other proposals within the scope of representation. PERB's decisional law further supports this interpretation of the Court Interpreter Act. (See *City of San Jose* (2013) PERB Decision No. 2341-M, p. 27 [parties may not outrightly refuse to discuss a mandatory subject after another has requested bargaining on that subject].) Nor may a party "insist on separating one

negotiable subject from all others . . . and thereby refuse to discuss other subjects that may form the basis of a possible compromise." (*El Dorado County Superior Court* (2017) PERB Decision No. 2523-C, p. 12.) Consequently, a regional committee may not designate a trial court as its bargaining representative when doing so would preclude the employee organization from negotiating over any subject within the scope of representation.[28]

Having found the Committee had a statutory obligation to meet and confer with CFI over the impacts of trial courts' changes to employee pension contributions, we turn to whether the Committee violated that obligation. It is well-established that an outright refusal to bargain over matters within the scope of representation is a per se violation of the duty to bargain in good faith. (*County of San Luis Obispo* (2015) PERB Decision No. 2427-M, p. 26; *Gonzales Union High School District* (1985) PERB Decision No. 480, adopting proposed decision at pp. 39-40; *Mount San Antonio Community College District* (1983) PERB Decision No. 334, pp. 10-11.) Here, it is undisputed that, on March 9, 2016 and June 30, 2017, the Committee refused to meet and confer with CFI over the impacts of trial courts' changes to employee pension contributions. By doing so, the Committee breached its obligation to meet and confer in good faith as required by Court Interpreter Act section 71818, and thereby committed an unfair practice under section 71825, subdivision (c) of the Act, and PERB Regulation 32608, subdivisions (a), (b), and (c).

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[28] Nothing in the Court Interpreter Act bars CFI from electing to forego wage offsets and instead negotiate with a trial court over non-wage offsets. Our holding that a regional committee must meet and confer over the impacts of trial courts' changes to employee pension contributions therefore does not prohibit such impacts from being negotiated at the local level, as CFI has done with several trial courts throughout the state.

2. Contractual Bargaining Obligation

In addition to its statutory bargaining obligation, we find the Committee also had a contractual obligation to meet and confer with CFI over the impacts of trial courts' changes to employee pension contributions, and that it violated that obligation. Although PERB lacks the authority to enforce contracts, it may interpret them when necessary to resolve an unfair practice allegation. (*San Francisco County Superior Court & Region 2 Court Interpreter Employment Relations Committee* (2018) PERB Decision No. 2609-I, p. 7.) In such cases, traditional rules of contract law guide the Board's interpretation:

> "A contract must be interpreted so as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. Where contractual language is clear and unambiguous, it is unnecessary to go beyond the plain language of the contract itself to ascertain its meaning. The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other. Thus, the Board must avoid an interpretation of contract language which leaves a provision without effect. However, where the contract language is silent or ambiguous, the policy may be ascertained by examining past practice or bargaining history."

(*County of Sonoma* (2012) PERB Decision No. 2242-M, pp. 15-16, internal quotations and citations omitted.)

Article 23.E clearly ties court interpreters' retirement benefits to the linked bargaining unit at each trial court. When the court and linked unit negotiate a change in the linked unit's retirement benefits, that change automatically applies to the trial court's interpreters. Article 23.E then requires that CFI be afforded the opportunity to

meet and confer over the impacts of that automatic change. But the provision fails to state whether the impact negotiations will occur at the regional or local level.

This question is answered more generally elsewhere in the MOU. Article 4, section 1 states, "For the purpose of meet and confer *under this agreement*, the . . . Region's principle authorized agent shall be the Chairperson of the [Region 2 Committee] or his/her designee."[29] (Italics added.) Because Article 23.E explicitly grants CFI the right to meet and confer over the impacts of changes to retirement benefits, such negotiations are a "meet and confer under this agreement." Thus, reading the MOU as a whole, the Committee was obligated to bargain over the impacts of EPMC elimination at the trial courts.[30]

We do not find the Committee's arguments against this interpretation of the MOU persuasive. First, the Committee argues that the Riker arbitration decision is binding and requires pension contribution offsets to be bargained at the local level for each of the trial courts within Region 2. However, the arbitration in that case arose

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[29] Notably, Article 4, section 2 designates the trial court as the party charged with *administration* of the terms of the MOU.

[30] We recognize that language in Article 4, section 1 permitting the Committee Chairperson to designate a representative to meet and confer on the Committee's behalf could be read to allow the delegation of impact bargaining over EPMC changes to a trial court. As in the statutory context, this reading of the MOU would allow the Committee to eliminate CFI's ability to negotiate wage increases to offset increased employee pension contributions. However, nothing in the record indicates that CFI clearly and unmistakably waived its right to negotiate over wages. (*Grossmont Union High School District* (1983) PERB Decision No. 313, p. 4 [waiver of statutory rights must be "clear and unmistakable," and the evidence must demonstrate an "intentional relinquishment" of a given right]; *Moreno Valley Unified School District* (1995) PERB Decision No. 1106, adopting proposed decision at p. 9; *California State Employees' Assn. v. Public Employment Relations Bd.* (1996) 51 Cal.App.4th 923, 937.)

from a grievance filed against the Santa Cruz County Superior Court and focused on that trial court's elimination of EPMC. Arbitrator Riker ruled that the court interpreters were entitled to an offset for increased pension contributions under Article 23.E but that offset could not be provided through a wage increase because of the uniformity requirement in section 71808.

An arbitrator's interpretation of a contract term is not binding on PERB but may be probative of the term's meaning. (*Regents of the University of California (Davis)* (2010) PERB Decision No. 2101-H, p. 22.) We do not find the Riker arbitration decision probative of the question before us, however, because in deciding the merits of the grievance, Riker focused solely on the individual trial court's obligations under Article 23.E, finding that the trial court improperly eliminated EPMC without any offset. The grievance was not filed against the Committee and the Committee's obligations were not at issue in the arbitration. Further, Riker ordered the trial court and the union to discuss a grievance remedy to effectuate his award and return to him if they could not reach agreement. Thus, the Riker arbitration decision did not address whether under Article 23.E the impacts of the EPMC elimination should have been initially negotiated at the local or regional level.

Second, the Committee argues CFI's prior conduct evinces an agreement between the parties that impacts of EPMC elimination are to be negotiated at the local level. "The parties' practical construction of a contract, as shown by their actions, is important evidence of their intent." (*Antelope Valley Community College District* (2018) PERB Decision No. 2618, p. 19.) When the Contra Costa County Superior Court proposed to eliminate EPMC in two steps, CFI met and conferred with the court

and reached an agreement on non-wage offsets covering the first step.[31] But Article 13, section 1 provides: "The waiver of any breach, term or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions." Thus, by meeting and conferring with the Contra Costa County Superior Court over the impacts of EPMC elimination, CFI did not waive its contractual right to meet and confer with the Committee over the impact of future changes to employee pension contributions.

Third, the Committee argues that the MOU's zipper clause precludes mid-term negotiations with it (but not with the trial courts) over the impacts of EPMC elimination. Article 13, section 1 provides that "[e]xcept as specifically provided herein," the parties will meet and confer during the MOU's term only by mutual agreement over any subject covered by the agreement. But Article 23.E clearly contemplates mid-term negotiations over the impacts of changes to pension benefits. Thus, the zipper clause does not apply to the impact negotiations CFI requested.

By refusing, on March 9, 2016 and June 30, 2017, to meet and confer with CFI over the impacts of trial courts' changes to employee pension contributions, the

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[31] The Committee also cites instances in 2014-2015 when CFI met and conferred over the impacts of EPMC reduction or elimination with three trial courts within Regions 1, 3, and 4. The trial courts reached separate local agreements with CFI to increase specific benefits in exchange for changes to interpreters' EPMC. CFI did not object to local bargaining over the EPMC issues in negotiations with two of the three courts; though, in Region 1, it clearly espoused that it was entitled to negotiate offsets to EPMC changes either locally or regionally. Regardless of CFI's prior participation in local bargaining, we do not find these instances probative of the parties' intent under the Region 2 MOU because Article 23.E's retirement provisions are unlike those under the Region 1, 3, and 4 MOUs, all of which failed to address those parties' meet and confer obligations should a change in the retirement plans arise during the term of the MOUs.

Committee breached Article 4, section 1 of the MOU, which designates the Committee as the entity that must "meet and confer under this agreement." A party's repudiation of a collective bargaining agreement provision is a per se violation of its duty to meet and confer in good faith. (*San Francisco County Superior Court & Region 2 Court Interpreter Employment Relations Committee*, *supra*, PERB Decision No. 2609-I, p. 7; *Regents of the University of California (Davis)*, *supra*, PERB Decision No. 2101-H, pp. 25-26.) By this conduct, the Committee breached its obligation to meet and confer in good faith as required by Court Interpreter Act section 71818, and thereby committed an unfair practice under section 71825, subdivision (c) of the Act, and PERB Regulation 32608, subdivisions (a), (b), and (c).

B. Refusal to Bargain Over Pension Contribution Proposals in Successor MOU Negotiations

The amended complaint alleged that the Committee violated the Court Interpreter Act by refusing to bargain over CFI's February 7, 2017 proposal to allow trial courts to adjust wages in response to, among other things, changes in employee pension contributions. At hearing, the parties litigated whether, throughout the entire course of successor MOU negotiations in 2016-2017, the Committee refused to bargain over CFI's proposals related to employee pension contributions. The ALJ found the Committee did in fact bargain over those proposals, and we agree.

It is well settled that a blanket refusal to bargain is a per se violation of the statutory duty to bargain in good faith. (*Gonzales Union High School District*, *supra*, PERB Decision No. 480, proposed decision at pp. 39-40; *Mount San Antonio Community College District*, *supra*, PERB Decision No. 334, pp. 10-11.) PERB has found an absolute refusal to bargain when the employer failed to provide the union

with any rationale for rejecting its proposal. (*Regents of the University of California* (2010) PERB Decision No. 2094-H, p. 20.) The record does not support finding a refusal to bargain here, however, because after taking the position that it need not negotiate EPMC wage offsets at the regional level, the Committee ultimately did so during successor MOU negotiations.

The Committee and CFI exchanged numerous proposals over the course of their negotiations, each hoping to address the EPMC issue. When the Committee presented its first comprehensive proposal, Shiohira explained that it included a new wage structure intended to address both wages and CFI's EPMC concerns, adding that if CFI agreed the proposed five-step wage scale could be used to address EPMC, the Committee would consider additional increases to the step scale. In conjunction with the wage steps, the Committee proposed to amend Article 23.E to add language explicitly waiving CFI's rights to bargain over both a trial court's decision to change EPMC and the impacts thereof, further showing the Committee intended its wage step proposal to resolve all outstanding EPMC issues. Aranguren responded that CFI did not believe it should have to trade resolution of EPMC issues for wage steps. As the parties continued to exchange proposals into the Fall, the Committee repeatedly sweetened its wage proposals in an effort to address all EPMC impacts issues. Based on this evidence, we conclude, contrary to CFI's argument, that the Committee bargained in good faith over the impacts of EPMC changes during successor MOU negotiations.

Nor do we find that the Committee refused to bargain over EPMC impacts merely because the Committee stated that the specific EPMC changes already

completed or in progress created a bargaining obligation only for the local trial courts involved, not for the Committee. Contrary to CFI's contention, the evidence does not show that Turner said the Committee's position that impacts of trial courts' changes to EPMC must be bargained locally was "immutable." Rather, when Turner stated the Committee's "immutable" position, she was expressing the Committee's concern that CFI's Article 22 proposal violated the wage uniformity requirement of section 71808. Contrary to CFI's claims, Turner was not signaling an outright refusal to bargain over EPMC impacts. As it had when Shiohira was its chief spokesperson, the Committee continued to offer improved wage proposals seeking to address both wage and pension inequalities with Turner as its spokesperson, ultimately resulting in a three-year contract providing a 21 percent wage increase over the life of the contract as the interpreters moved through the newly-created wage steps, as well as a wage re-opener in July 2019. Though the Committee rejected CFI's proposals regarding pension contribution offsets and urged a different approach to address the impacts of changes to EPMC, that does not amount to a refusal to bargain. (*State of California (Department of Corrections & Rehabilitation, Department of Personnel Administration)* (2010) PERB Decision No. 2115-S, p. 12.)[32]

[32] Elsewhere in this decision we explain how the Committee and the trial courts violated the Court Interpreter Act in several distinct ways, including by taking the position that only the trial courts must bargain about impacts of specific EPMC changes, thereby removing wage offsets from the table. While we remedy those violations as explained *post*, we need not determine whether these violations would have forfeited the Committee's right to impose terms following any impasse in successor negotiations. That issue is not before us because the parties reached an agreement rather than an impasse.

Turner's two e-mails regarding Santa Cruz County Superior Court's decision to eliminate a stipend rooted in the Riker arbitration decision also do not evidence bad faith in successor MOU negotiations. Notably, neither e-mail addressed EPMC within the context of those ongoing negotiations. The first e-mail reiterated the Committee's position as to CFI's regional bargaining demands under Article 23.E of the "current" contract, the provisions of which were still in effect as the status quo until the parties could agree upon a successor agreement or reached impasse. The second e-mail addressed CFI's notification that it intended to amend its unfair practice charge and the then-pending complaint, which at that time addressed only the Committee's pre-successor bargaining conduct and the Courts' alleged repudiation of the grievance procedures. The Committee's position that Article 23.E required local trial courts rather than the Committee to bargain over specific EPMC impacts during the MOU term does not counter the evidence that the Committee actually negotiated over EPMC impacts on a regional level during successor MOU negotiations.

Nor in this instance does the Committee's failure to provide written support for its expressed concern that CFI's pension equity adjustment proposals would provide a windfall to many interpreters demonstrate a refusal to bargain. The record does not show that the Committee failed to respond to an information request for such written records. In fact, the record demonstrates that Turner, in rejecting CFI's proposals, clearly communicated the Committee's concerns at the bargaining table and identified those concerns as the reason it was proposing alternative solutions. (*Regents of the University of California*, *supra*, PERB Decision No. 2094-H, p. 20 [employer supported

its proposal in good faith with rational arguments that it communicated to the union during bargaining].)

The record demonstrates the Committee made extensive good faith efforts to address CFI's EPMC concerns via across-the-board wage increases. That the parties initially took different approaches to the issue before ultimately reaching agreement does not mean the Committee failed or refused to bargain in good faith. We find that CFI failed to present sufficient evidence demonstrating that the Committee refused to bargain regionally over EPMC impacts during successor MOU negotiations.

C. Unilateral Changes

"A 'per se' violation of the duty to bargain in good faith will be found where there has been a unilateral change in the status quo concerning a negotiable subject of bargaining." (*Stanislaus Consolidated Fire Protection District* (2012) PERB Decision No. 2231-M, pp. 12-13; *Stockton Unified School District* (1980) PERB Decision No. 143, p. 22.) PERB has recognized three general categories of unlawful unilateral actions: (1) changes to the parties' written agreement; (2) changes in an established past practice; and (3) newly created, implemented, or enforced policies. (*Pasadena Area Community College District* (2015) PERB Decision No. 2444, p. 12, fn. 6, citing *Fairfield-Suisun Unified School District* (2012) PERB Decision No. 2262, p. 9; *Grant Joint Union High School District* (1982) PERB Decision No. 196.) To state a prima facie violation, the charging party must establish that: (1) the employer took action to change policy, (2) the change in policy concerns a matter within the scope of representation, (3) the action was taken without giving the exclusive representative notice or opportunity to bargain over the change, and (4) the action had a generalized

effect or continuing impact on terms and conditions of employment. (*County of Kern* (2018) PERB Decision No. 2615-M, pp. 8-9; *Pasadena Area Community College District*, *supra*, PERB Decision No. 2444, p. 11, citing *Fairfield-Suisun Unified School District*, *supra*, PERB Decision No. 2262.) The amended complaint alleges that various Courts made unlawful unilateral changes to pension contributions, negotiated grievance procedures, and a stipend. We address each allegation in turn.

1. Unilateral Change to Pension Contributions

As noted *ante*, when an employer has no obligation to bargain over a particular decision, it nonetheless must meet and confer over any foreseeable effects of the decision on matters within the scope of representation. (*County of Santa Clara*, *supra*, PERB Decision No. 2680-M, pp. 11-12.) Once an employer makes a firm decision, it must provide the exclusive representative with notice and a reasonable opportunity to negotiate prior to taking action that affects matters within the scope of representation. (*County of Sacramento* (2013) PERB Decision No. 2315-M, p. 5.) Once the exclusive representative has received notice of the proposed change, it must make a valid request to bargain any foreseeable effects of the change on negotiable matters. (*County of Santa Clara* (2013) PERB Decision No. 2321-M, p. 30.) As a general rule, the employer may not implement the non-negotiable decision until the parties have reached agreement or impasse over the negotiable effects of the decision. (*Id.* at p. 25; see *Compton Community College District* (1989) PERB Decision No. 720, pp. 14-15 [setting out limited circumstances under which employer may implement non-negotiable decision prior to completion of effects bargaining].)

In 2015, the Contra Costa and Marin County Superior Courts notified CFI that they had reached agreement with their linked units on EPMC reductions. On February 11, 2016, Aranguren sent a letter to the Committee demanding to bargain the impacts of the reductions at the regional level. Both Courts agreed to postpone implementation of the EPMC changes for the interpreters.

Between April 27 and June 3, 2016, the Mendocino County Superior Court notified CFI of its intent to increase employee pension contributions for the one interpreter employed by the Court. The increase, matching a change in the linked bargaining unit, was to take effect the first pay period of July 2016. CFI advised the Court of CFI's outstanding request for regional bargaining and stated that CFI was reserving its right to meet locally pending regional negotiations.

On May 16, 2016, the San Mateo County Superior Court notified CFI that the Court had reached an agreement with the linked unit to eliminate the EPMC effective July 3, 2016. CFI declined the Court's invitation to meet and confer over impacts at that time but in September notified the Court of its intent to bargain impacts during successor MOU negotiations.

On September 27, 2016, the Santa Clara County Superior Court notified CFI of the linked bargaining unit's agreement to eliminate the EPMC and the Court's intent to apply the same change to CFI unit members. Aranguren asserted in an e-mail to the Court that the impacts of the change needed to be bargained regionally but nonetheless met with the Court on October 24, 2016.

Meanwhile, on August 26, 2016, CFI and the Committee began negotiations for a successor MOU. As found *ante*, during those negotiations the parties bargained

over the negotiable impacts of the Courts' EPMC changes. Until those negotiations resulted in an agreement or a good faith impasse, the Courts could not implement changes to the interpreters' EPMC. (*County of Santa Clara*, *supra*, PERB Decision No. 2321-M, p. 30.) The Mendocino and San Mateo County Superior Courts, however, implemented the EPMC changes in October 2016, and the Santa Clara County Superior Court implemented the EPMC change in two steps between November 2016 and February 2017. But impact bargaining between CFI and the Committee did not finish until September 11, 2017, when the parties reached agreement on a successor MOU.

Under Board precedent, the Courts could not implement the EPMC changes prior to the completion of impact bargaining unless "the implementation date [was] based upon . . . an immutable deadline . . . or an important managerial interest, such that a delay in implementation beyond the date chosen would effectively undermine the employer's right to make the nonnegotiable decision." (*Compton Community College District*, *supra*, PERB Decision No. 720, pp. 14-15.) No evidence in the record shows that the Courts could not have waited until the completion of regional impact bargaining to implement the EPMC changes, or that their decision to make those changes would have been undermined by the delay. Accordingly, we conclude that the Mendocino, San Mateo, and Santa Clara County Superior Courts' implementation of changes to interpreters' EPMC prior to the completion of regional impact bargaining in September 2017 breached the Courts' obligation to meet and confer in good faith as required by Court Interpreter Act section 71818, and thereby

constituted an unfair practice under section 71825, subdivision (c) of the Act, and PERB Regulation 32608, subdivisions (a), (b), and (c).

2. Unilateral Change to Grievance Procedures

The amended complaint alleged that on April 12, 2016, certain Courts unilaterally changed the parties' negotiated grievance procedure by issuing written responses to CFI's April 1, 2016 grievances without first meeting with CFI as required by the MOU's grievance procedure.[33] An employer may not unilaterally add new terms to an existing collective bargaining agreement, nor repudiate its provisions. (*Stanislaus Consolidated Fire Protection District*, *supra*, PERB Decision No. 2231-M, p. 15; *Regents of the University of California* (1991) PERB Decision No. 907-H, p. 24 (*Regents*).) PERB has long held that grievance procedures are within the scope of representation (*County of Riverside* (2003) PERB Decision No. 1577-M, p. 6, citing *Anaheim City School District* (1983) PERB Decision No. 364) and that an employer's failure or refusal to process a grievance in accordance with collectively-bargained grievance procedures may be reviewed as a unilateral change (*Omnitrans* (2010) PERB Decision No. 2143-M, pp. 6-8; *County of Riverside*, *supra*, PERB Decision No. 1577-M, p. 6). Accordingly, there is no question that the policy at issue concerns a negotiable matter.

In the proposed decision, the ALJ held that a charge based on repudiation of the grievance procedure requires evidence that the employer disavowed the grievance procedure as a means for resolving the alleged violations of the collective bargaining

[33] Those grievances challenged both the Courts' failure to provide the same offsetting benefits provided to linked bargaining units and the Committee's refusal to meet and confer over the impacts of EPMC changes.

agreement, or unilaterally imposed changes to the procedure itself. Citing *Hacienda La Puente Unified School District* (1997) PERB Decision No. 1187, pp. 2-3, adopting proposed decision at pp. 13-16 (*Hacienda*), he found that the Committee did not repudiate the grievance procedure because Yuen did not outrightly disavow its contractual obligations under Article 9 or change the grievance procedure, but instead denied CFI's grievance on the grounds that Article 23.E required local bargaining at the trial court level.

In *Hacienda*, *supra*, PERB Decision No. 1187, the employer denied two grievances for their failure to comply with standard grievance procedures. (*Id.* at pp. 2-3, adopting proposed decision at pp. 6-10.) In so doing, the employer relied on the same interpretation of the grievance processing procedures as it had in the past, following its standard practice to notify the union of its decision without informing the union of the nature of the perceived deficiency. (*Id.*, adopting proposed decision at pp. 5-6, 10-11, and 13-16.) The *Hacienda* decision thus addressed whether the employer acted consistently with an unwritten past practice, not whether it altered an existing practice embodied in a clear and unambiguous written agreement. Because the allegation here is that the Courts failed to follow the written grievance procedure in the parties' MOU, *Hacienda* is inapposite.

Decisions addressing an employer's deviation from a written agreement are a better fit here. In *Regents*, *supra*, PERB Decision No. 907-H, for example, the Board found that, given the existence of clear and unambiguous contract language setting forth the criteria for three-year appointments of university lecturers, the university

violated the Higher Education Employer-Employee Relations Act (HEERA)[34] when it unilaterally applied additional criteria for making such appointments not set forth in the agreement. (*Id.* at pp. 23-24.) Likewise, in *Fairfield-Suisun Unified School District*, *supra*, PERB Decision No. 2262, the parties negotiated a progressive discipline policy with specific exceptions detailed in their bargaining contract. The Board held that the employer unlawfully imposed a unilateral change when it added an additional exception to the progressive discipline policy. (*Id.* at pp. 9-12.)

Article 9 clearly establishes the steps the Courts should have taken upon receipt of the grievances: the parties must meet within 10 business days after the filing of a grievance, and the designated court management representative may issue a written response only after such a meeting. CFI filed its grievance with the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts on April 1, 2016. Without first meeting with CFI, representatives from each of the courts responded in writing on April 12 and 13, summarily rejecting CFI's grievance on the basis that there had been no violation of the MOU.[35] In addition to the responses received from the Courts, Yuen responded on the Committee's behalf, explicitly rejecting CFI's grievance and unambiguously noting "[s]ince no violation of the MOU has occurred, . . . no further action will be taken on this grievance."

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[34] HEERA is codified at section 3560 et seq.

[35] The Courts denied the grievance on a variety of grounds, including that they had not implemented nor were they in the process of implementing any EPMC changes, that they intended to comply with their bargaining obligations should such changes be announced, or that they had already initiated or were willing to commence negotiations with CFI over the matter. We do not address the merits of these bases for denial of the grievance as we find that the courts unilaterally implemented a change to the grievance procedures themselves.

Even though the Courts clearly stated that they would not process the grievances further, CFI nonetheless attempted once more to resolve its concerns utilizing the parties' negotiated grievance procedures. In letters to three of the four Courts dated April 22, 2016, Aranguren stated:

> "The purpose of the grievance procedure is to share information and discuss disputes with the goal of resolving issues as quickly and amicably as possible. Please clarify whether you are refusing to hold a meeting to discuss this grievance. If you do not wish to meet in accordance with the grievance procedure, please consider this letter our formal appeal to arbitration on the grievance filed on April 1, 2016."[36]

The record is devoid of any evidence that the Courts responded to these letters. Thus, contrary to the clear and unambiguous requirements of their MOU, Court management deviated from the contractual grievance procedure by failing to meet with CFI before issuing written responses to its grievance.[37]

To constitute an unlawful unilateral change in policy, a change must be more than a mere contract breach; it must have a generalized effect or continuing impact upon the bargaining unit. (*City of Montebello* (2016) PERB Decision No. 2491-M, p. 13; *Grant Joint Union High School District*, *supra*, PERB Decision No. 196, p. 9.)

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[36] In her letter to Contra Costa County Superior Court, Aranguren also indicated that CFI had previously proposed that the court process the grievance at Step 2 of the grievance procedure. The letters to Marin and San Mateo County Superior Courts included no such claim.

[37] We do not suggest that the parties can never agree to extend the timelines or alter a specific requirement of the grievance procedure on a case-by-case basis. Indeed, Article 9 allows that "[a]ny level of review, or timelines established by this procedure, may be waived or extended by mutual agreement confirmed in writing," but there is no evidence of any such agreement in the record.

The failure to properly process even a single grievance has a generalized effect or continuing impact on bargaining unit members' terms and conditions of employment if "the action is based upon the employer's belief that it had a contractual right to take the action without negotiating with the union." (*County of Riverside*, *supra*, PERB Decision No. 1577-M, p. 6.) For example, in *Omnitrans*, *supra*, PERB Decision No. 2143-M, the employer refused to process a grievance, claiming the contractual grievance procedure did not allow the union to file grievances in its own name. (*Id.* at p. 7.) The Board found an unlawful unilateral change because there was no evidence the union had waived its statutory right to file a grievance in its own name. (*Id.* at p. 8.)

Here, the Committee clearly stated in writing to CFI that its declination to bargain regionally over the impacts of changes to EPMC was not grievable "because Article 23.E clearly establishes the agreement between the [parties] that such bargaining shall occur at each [trial] court." The trial courts similarly rejected the grievances on the basis that they had already initiated, or were willing to commence, bargaining with CFI over the matter, implicitly indicating that they, not the Committee, were authorized under Article 23.E to bargain with CFI. Thus, like the employer in *Omnitrans*, the Courts rejected CFI's grievances on the grounds that they were not subject to the contractual grievance procedure. Because this rejection indicates that future grievances over the same subjects would also be rejected out of hand, it had a generalized effect or continuing impact on unit members' terms and conditions of employment.

We therefore find that the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts unilaterally implemented a change in policy by repudiating the parties' collectively bargained grievance procedures, which require that a Court representative meet with CFI before issuing a written grievance response, without affording CFI notice and the opportunity to bargain over that change. This conduct breached the Courts' obligation to meet and confer in good faith as required by Court Interpreter Act section 71818, and thereby constituted an unfair practice under section 71825, subdivision (c) of the Act, and PERB Regulation 32608, subdivisions (a), (b), and (c).

3. Unilateral Elimination of Pension Stipend

As discussed *ante*, PERB recognizes that a unilateral change in an established past practice may constitute unlawful action. (*Fairfield-Suisun Unified School District*, *supra*, PERB Decision No. 2262, p. 9.) A binding past practice is one which is "unequivocal, clearly enunciated and acted upon, and readily ascertainable *over a reasonable period of time* as a fixed and established practice accepted by both parties," or which is "regular and consistent" or "historic and accepted." (*County of Orange* (2018) PERB Decision No. 2611-M, pp. 10-11, fn. 7, citing *County of Riverside* (2013) PERB Decision No. 2307-M, p. 20.)

In 2009, as a result of the Riker arbitration decision, the Santa Cruz County Superior Court began paying an annual monetary stipend to its court interpreters to offset their increased pension contributions, retroactive to 2008. The decision ordered the trial court to continue paying this benefit for a period at least consistent with the pension changes reflected in the MOU between the court and the interpreters' linked

unit, with bargaining between CFI and the trial court to take place thereafter if either party wished to alter the stipend. When the linked unit's MOU expired in 2010, the court continued to provide the stipend to its interpreters for seven additional years. In June 2017, the court decided to eliminate the stipend and informed CFI that it would stop the payment.

We have no trouble concluding that payment of the stipend was a binding past practice, established by the Santa Cruz County Superior Court's consistent conduct over the course of eight consecutive years. It also is clear that the Court changed that past practice when it ceased paying the stipend in June 2017, and that the change had a generalized effect and continuing impact on bargaining unit employees. (See *City of Davis* (2016) PERB Decision No. 2494-M, p. 20 ["PERB has found an unlawful policy change, as opposed to an isolated breach of contract, where an employer unilaterally establishes a policy that represents a conscious or apparent reversal of a previous understanding."].) The amount employees pay toward their pension benefits is within the scope of representation because it has a direct effect on wages. (*Clovis Unified School District* (2002) PERB Decision No. 1504, p. 14.) The Court's elimination of the stipend resulted in interpreters paying more toward their pension benefits, and therefore the change involved a matter within the scope of representation. Finally, the Court offered to meet and confer with CFI over elimination of the stipend *after* notifying CFI that it would stop making the payments. When the exclusive representative first learns of a negotiable change after the decision has been made, "by definition, there has been inadequate notice." (*City of Sacramento* (2013) PERB Decision No. 2351-M, p. 33.) Because all elements for an unlawful unilateral

change are established, we conclude that the Santa Cruz County Superior Court breached its obligation to meet and confer in good faith as required by Court Interpreter Act section 71818, and thereby committed an unfair practice under section 71825, subdivision (c) of the Act, and PERB Regulation 32608, subdivisions (a), (b), and (c).

REMEDY

The Court Interpreter Act grants PERB broad authority to remedy violations of the Act. (§ 71825, subd. (b), incorporating § 3541.3; *Boling v. PERB* (2019) 33 Cal.App.5th 376, 387.) When PERB finds that an employer has committed unfair practices, it has the power to order the employer to cease and desist its unlawful conduct and to take such actions as are necessary to eliminate the effects of that conduct, including making injured parties and affected employees whole. (§ 3541.5, subd. (c); *Boling v. PERB*, *supra*, 33 Cal.App.5th at p. 387.)

Here, the Committee violated its duty to meet and confer in good faith by rejecting CFI's February 11, 2016 demand to bargain over the negotiable impacts of Region 2 Courts' proposed elimination or reduction of EPMC. A typical remedy for such a violation includes an order to meet and confer with the exclusive representative over negotiable effects. (*Bellflower Unified School District* (2014) PERB Decision No. 2385, p. 12.) In this case, however, we have found that the Committee did in fact negotiate over the impacts of the Courts' EPMC changes during successor MOU negotiations from August 2016 through September 2017. We therefore decline to order the Committee to meet and confer over those impacts.

Additionally, the Mendocino, San Mateo, and Santa Clara County Superior Courts unlawfully implemented changes to interpreters' EPMC prior to the completion of regional bargaining over the negotiable impacts of those changes. The usual remedy for an employer's violation of its effects bargaining obligation is an order to bargain with the exclusive representative over the effects, with a limited backpay award to make employees whole for losses suffered and to mitigate as much as possible the imbalance in the parties' bargaining positions resulting from the employer's unlawful conduct. (*County of Santa Clara*, *supra*, PERB Decision No. 2680-M, p. 14; *Bellflower Unified School District*, *supra*, PERB Decision No. 2385, pp. 12-13.)

We decline to order bargaining for these violations for the same reason we decline to order bargaining by the Committee, viz., the parties completed impact bargaining as part of successor MOU negotiations. However, because the Courts implemented changes prior to the completion of impact bargaining, interpreters suffered a loss of wages during that time period. Accordingly, the Mendocino, San Mateo, and Santa Clara County Superior Courts will be ordered to pay the interpreters backpay equivalent to the amount of the EPMC reduction from the date the reduction was implemented by each Court until September 11, 2017, the day impact bargaining was complete. (See *County of Santa Clara*, *supra*, PERB Decision No. 2680-M, p. 14 ["Where an employer's violation involved a failure to bargain effects, make-whole relief runs from the date any impacted employee began to experience harm until" effects bargaining is complete].)

Further, the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts repudiated the negotiated grievance procedure in the 2013-2016 CFI-Region 2 MOU by failing to meet with CFI prior to issuing written responses to CFI's April 1, 2016 grievances. The proper remedy for an unlawful repudiation of a grievance procedure includes an order to resume processing the improperly rejected grievance. (*Omnitrans*, *supra*, PERB Decision No. 2143-M, p. 9; *County of Riverside*, *supra*, (2003) PERB Decision No. 1577-M, pp. 8-9.) The Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts thus will be ordered to reinstate the April 1, 2016 grievances upon CFI's request and to process them in accordance with the grievance procedures in Article 9 of the 2013-2016 CFI-Region 2 MOU.

Finally, the Santa Cruz County Superior Court unlawfully ceased payment of the pension stipend without providing CFI an opportunity to meet and confer over the decision. "The standard remedy for an employer's unlawful unilateral change usually consists of a cease and desist order, make-whole relief for employees injured by the change, rescission of the change, and a bargaining order." (*County of Santa Clara*, *supra*, PERB Decision No. 2680-M, p. 14.) That remedy is appropriate here. Consequently, the Santa Cruz County Superior Court will be ordered to rescind its elimination of the pension stipend, pay affected interpreters backpay equal to the amount of the stipend plus seven percent interest, and meet and confer upon request by CFI over any future changes to the pension stipend.

It also is appropriate to order the Committee and the Courts to cease and desist from the unlawful conduct found in this decision, and to post physical and electronic

notices of their violations. (*City of Sacramento*, *supra*, PERB Decision No. 2351-M, pp. 43-45.)

ORDER

The Region 2 Court Interpreter Employment Relations Committee

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the Region 2 Court Interpreter Employment Relations Committee (Committee) violated the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act or Act) by refusing to meet and confer "regionally" over the impact of changes by local trial courts to employee pension contributions. By this conduct, the Committee also interfered with the right of employees to be represented by the California Federation of Interpreters, Local 39000, The Newspaper Guild-Communication Workers of America (CFI) and denied CFI its right to represent employees. This conduct violated Government Code sections 71818, 71822, and 71825(c), and Public Employment Relations Board (PERB) Regulations 32608(a), (b), and (c). (Cal. Code of Regs., tit. 8, sec. 31001 et seq.)

Pursuant to Court Interpreter Act section 71825(a), it hereby is ORDERED that the Committee and its representatives shall:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and confer in good faith with CFI over impacts of Region 2 trial courts' changes to employer-paid member contributions.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Committee.

3. Denying CFI its right to represent employees in their employment relations with the Committee.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Within 10 workdays following the date this decision is no longer subject to appeal, post at all work locations where notices to interpreters customarily are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Committee, indicating that the Committee will comply with the terms of this Order. Such posting shall be maintained for a period of 30 consecutive workdays. In addition to the physical posting of notices, notice shall be posted by electronic message, intranet, internet site and other electronic means customarily used by the Committee to communicate with employees in the bargaining unit represented by CFI. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material. (*City of Sacramento*, *supra*, PERB Decision No. 2351-M.)

2. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. The Committee shall provide reports, in writing, as directed by the General Counsel or his designee. All reports regarding compliance with this Order shall be concurrently served on CFI.

<u>The Mendocino, San Mateo, and Santa Clara County Superior Courts</u>

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the Mendocino, San Mateo, and Santa Clara County Superior Courts unlawfully implemented changes to interpreters' employer-

paid member contributions (EPMC) prior to the completion of regional bargaining over the negotiable impacts of those changes. By this conduct, the Mendocino, San Mateo, and Santa Clara County Superior Courts also interfered with the right of employees to be represented by CFI and denied CFI its right to represent employees. This conduct violated Government Code sections 71818, 71822, and 71825(c), and PERB Regulations 32608(a), (b), and (c).

Pursuant to Court Interpreter Act section 71825(a), it hereby is ORDERED that the Mendocino, San Mateo, and Santa Clara County Superior Courts and their representatives shall:

A. CEASE AND DESIST FROM:

1. Implementing changes to interpreters' EPMC prior to the completion of bargaining over the impacts of such changes.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Courts.

3. Denying CFI its right to represent employees in their employment relations with the Courts.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Make affected interpreters whole for any financial losses suffered as a result of the Courts' unlawful unilateral changes, with interest at the rate of 7 percent per annum. The back pay period shall run from the date the EPMC reduction was implemented at each Court until September 11, 2017.

2. Within 10 workdays following the date this decision is no longer subject to appeal, post at all work locations where notices to interpreters customarily

are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Court, indicating that the Court will comply with the terms of this Order. Such posting shall be maintained for a period of 30 consecutive workdays. In addition to the physical posting of notices, notice shall be posted by electronic message, intranet, internet site and other electronic means customarily used by the Court to communicate with employees in the bargaining unit represented by CFI. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material. (*City of Sacramento*, *supra*, PERB Decision No. 2351-M.)

3. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. The Courts shall provide reports, in writing, as directed by the General Counsel or his designee. All reports regarding compliance with this Order shall be concurrently served on CFI.

<u>The Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts</u>

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts repudiated the negotiated grievance procedure in the 2013-2016 CFI-Region 2 MOU by failing to meet with CFI prior to issuing written responses to CFI's April 1, 2016 grievances. By this conduct, the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts also interfered with the right of employees to be represented by CFI and denied CFI its right to represent

employees. This conduct violated Government Code sections 71818, 71822, and 71825(c), and PERB Regulation 32608(a), (b), and (c).

Pursuant to Court Interpreter Act section 71825(a), it hereby is ORDERED that the Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts and their representatives shall:

A. CEASE AND DESIST FROM:

1. Unilaterally changing contractual grievance procedures.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Courts.

3. Denying CFI its right to represent employees in their employment relations with the Courts.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Upon CFI's request, reinstate the grievances filed by CFI on April 1, 2016, and process the grievances in accordance with the grievance procedures in Article 9 of the 2013-2016 CFI-Region 2 memorandum of understanding.

2. Within 10 workdays following the date this decision is no longer subject to appeal, post at all work locations where notices to interpreters customarily are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Court, indicating that the Court will comply with the terms of this Order. Such posting shall be maintained for a period of 30 consecutive workdays. In addition to the physical posting of notices, notice shall be posted by electronic message, intranet, internet site and other electronic means

customarily used by the Court to communicate with employees in the bargaining unit represented by CFI. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material. (*City of Sacramento*, *supra*, PERB Decision No. 2351-M.)

3. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. The Courts shall provide reports, in writing, as directed by the General Counsel or his designee. All reports regarding compliance with this Order shall be concurrently served on CFI.

The Santa Cruz County Superior Court

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the Santa Cruz County Superior Court unlawfully ceased payment of a pension stipend without providing CFI an opportunity to meet and confer over the decision. By this conduct, the Santa Cruz County Superior Court also interfered with the right of employees to be represented by CFI and denied CFI its right to represent employees. This conduct violated Government Code sections 71818, 71822, and 71825(c), and PERB Regulations 32608(a), (b), and (c).

Pursuant to Court Interpreter Act section 71825(a), it hereby is ORDERED that the Santa Cruz County Superior Court and its representatives shall:

A. CEASE AND DESIST FROM:

1. Unilaterally eliminating pension stipends paid to interpreters.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Court.

3. Denying CFI its right to represent employees in their employment relations with the Court.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Rescind the elimination of the pension stipend.

2. Make affected interpreters whole for any financial losses suffered as a direct result of the elimination of the pension stipend, with interest at the rate of 7 percent per annum.

3. Upon request, meet and confer with CFI over any changes to the interpreters' pension stipend.

4. Within 10 workdays following the date this decision is no longer subject to appeal, post at all work locations where notices to interpreters customarily are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Court, indicating that the Court will comply with the terms of this Order. Such posting shall be maintained for a period of 30 consecutive workdays. In addition to the physical posting of notices, notice shall be posted by electronic message, intranet, internet site and other electronic means customarily used by the Court to communicate with employees in the bargaining unit represented by CFI. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material. (*City of Sacramento*, *supra*, PERB Decision No. 2351-M.)

5. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. The Court shall provide reports, in writing, as

directed by the General Counsel or his designee. All reports regarding compliance with this Order shall be concurrently served on CFI.

Members Banks and Krantz joined in this Decision.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California

After a hearing in Unfair Practice Case No. SF-CE-11-I, in which all parties had the right to participate, it has been found that:

1) The Region 2 Court Interpreter Employment Relations Committee (Committee) violated the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) by refusing to meet and confer "regionally" over the impact of changes by local trial courts to employee pension contributions;

2) The Mendocino, San Mateo, and Santa Clara County Superior Courts unlawfully implemented changes to interpreters' employer-paid member contributions (EPMC) prior to the completion of regional bargaining over the negotiable impacts of those changes;

3) The Contra Costa, Marin, San Mateo, and Santa Clara County Superior Courts repudiated the negotiated grievance procedure in the 2013-2016 Memorandum of Understanding between the Committee and California Federation of Interpreters, Local 39000, The Newspaper Guild-Communication Workers of America (CFI) by failing to meet with CFI prior to issuing written responses to CFI's April 1, 2016 grievances; and

4) The Santa Cruz County Superior Court unlawfully ceased payment of a pension stipend without providing CFI an opportunity to meet and confer over the decision.

By this conduct, the Committee and the above-identified trial courts also interfered with the right of employees to be represented by CFI and denied CFI its right to represent employees. This conduct violated Government Code sections 71818, 71822, and 71825(c), and Public Employment Relations Board Regulations 32608(a), (b), and (c). (Cal. Code of Regs., tit. 8, sec. 31001 et seq.)

As a result of this conduct, we have been ordered to post this Notice and:

I. **THE REGION 2 COURT INTERPRETER EMPLOYMENT RELATIONS COMMITTEE WILL:**

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and confer in good faith with CFI over impacts of Region 2 trial courts' changes to EPMC.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Committee.

3. Denying CFI its right to represent employees in their employment relations with the Committee.

II. **THE MENDOCINO, SAN MATEO, AND SANTA CLARA COUNTY SUPERIOR COURTS WILL:**

A. CEASE AND DESIST FROM:

1. Implementing changes to interpreters' EPMC prior to the completion of bargaining over the impacts of such changes.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Court.

3. Denying CFI its right to represent employees in their employment relations with the Court.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE COURT INTERPRETER ACT:

1. Make affected interpreters whole for any financial losses suffered as a result of the unlawful unilateral changes, with interest at the rate of 7 percent per annum. The back pay period shall run from the date the EPMC reduction was implemented at each Court until September 11, 2017.

III. **THE CONTRA COSTA, MARIN, SAN MATEO, AND SANTA CLARA COUNTY SUPERIOR COURTS WILL:**

A. CEASE AND DESIST FROM:

1. Unilaterally changing contractual grievance procedures.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Courts.

3. Denying CFI its right to represent employees in their employment relations with the Courts.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE COURT INTERPRETER ACT:

1. Upon CFI's request, reinstate the grievances filed by CFI on April 1, 2016, and process the grievances in accordance with the grievance procedures in Article 9 of the 2013-2016 CFI-Region 2 Memorandum of Understanding.

IV. **THE SANTA CRUZ COUNTY SUPERIOR COURT WILL:**

A. CEASE AND DESIST FROM:

1. Unilaterally eliminating pension stipends paid to interpreters.

2. Interfering with employees' right to be represented by CFI in their employment relations with the Court.

3. Denying CFI its right to represent employees in their employment relations with the Court.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE COURT INTERPRETER ACT:

1. Rescind the elimination of the pension stipend.

2. Make affected interpreters whole for any financial losses suffered as a direct result of the elimination of the pension stipend, with interest at the rate of 7 percent per annum.

3. Upon request, meet and confer with CFI over any changes to the interpreters' pension stipend.

Dated: _____ Region 2 Court Interpreter Employment Relations Committee

By: _____
Authorized Agent

Dated: _____ _____County Superior Court[38]

By: _____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST 30 CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.

[38] Only trial courts found to have individually violated the Act need sign here.