STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

CHRISTINA GARCIA, Charging Party, v. ATWATER ELEMENTARY TEACHERS ASSOCIATION, CTA/NEA, Respondent.	Case No. SA-CO-682-E PERB Decision No. 2995 December 15, 2025

Appearances: Christina Garcia, on her own behalf; Theresa Witherspoon, Attorney, for Atwater Elementary Teachers Association, CTA/NEA.

Before Banks, Chair; Krantz, Paulson, Krausse, and Ortega, Members.

DECISION

BANKS, Chair: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Charging Party Christina Garcia from the dismissal of her unfair practice charge by PERB's Office of the General Counsel (OGC). Garcia's unfair practice charge, as amended, alleged that Respondent Atwater Elementary Teachers Association, CTA/NEA (AETA)[1] violated the Educational Employment Relations Act (EERA) by breaching its duty of fair representation.[2] Garcia also alleged

[1] AETA's State and National affiliates are the California Teachers Association ("CTA") and the National Education Association ("NEA"), respectively.

[2] EERA is codified at Government Code section 3540 et seq. PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

that AETA engaged in age discrimination and retaliated against her. OGC determined that Garcia's charge failed to state a prima facie case and that not all of her allegations were timely. OGC dismissed her charge and Garcia appealed.

In most respects, this is an unremarkable appeal, however, we are issuing a precedential decision because Garcia fabricated all of the legal citations in her appeal. The fabricated legal authorities were created by generative artificial intelligence (AI) tools that Garcia used to draft her appeal. The Board therefore issues this decision to resolve the instant matter, but also as a warning. No charge, appeal, response, reply or any other filing before PERB should contain any citations or statements of law, whether provided by AI or any other source, which are fabricated. Inclusion of fabricated cases or statements of law, before any division of PERB, will warrant serious consequences, such as striking the filing from the record, dismissal of the charge, or monetary sanctions.[3]

FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND[4]

Structure of AETA and Garcia's Roles in the Association

Garcia is a certificated employee of the Atwater Elementary School District (District), and AETA is her exclusive representative. AETA's bylaws describe the leadership structure of the Association and designate which committees and

[3] Though the charging party in the instant case is self-represented, the Board hereby puts attorneys on notice that filing documents that include fabricated cases or statements of law may be reported to the State Bar.

[4] As required in the current procedural posture, we assume that Garcia's factual allegations are true, and we view them in the light most favorable to Garcia. (*City and County of San Francisco* (2020) PERB Decision No. 2712-M, p. 2.)

Association leaders participate in bargaining with the District. The Negotiating Committee conducts negotiations with the District and reports to the Executive Board and the Representative Council, composed of faculty representatives. Garcia was a member of the AETA Negotiating Committee for the 2023-2024 school year and had served on the committee in previous years.

In the fall of 2023, Garcia sent a negotiations survey to AETA members asking their preferences about changing from composite health plan rates to tiered rates. Out of approximately 250 members, 138 members completed the survey, with 53.6 percent of respondents favoring changing to tiered rates. During an April 2024 Negotiating Committee meeting, Garcia and another committee member, Shane St. Onge, got into an argument over the health plan rate issue. Soon after, St. Onge resigned from the committee.

In August 2024, AETA and the District resumed negotiations for a successor contract. On August 19, 2024, the newly elected AETA president, Brian Hixson, informed Garcia via e-mail that she was no longer on the Negotiating Committee. On October 2, 2024, AETA and the District reached a tentative agreement, and the AETA membership ratified the agreement by a three-to-one margin.

In the spring of the 2024-2025 school year, Garcia reported several workplace issues and Association-related complaints to AETA, including AETA election voting issues, District misuse of teachers' planning time, and classroom over-enrollment concerns. AETA did not file any grievances related to Garcia's concerns, but AETA leadership followed up by requesting meetings with the District regarding planning time.

District Discipline of Garcia and Garcia's Complaints About the District

Meanwhile, during the 2024-2025 school year, the District disciplined Garcia on multiple occasions for unprofessional conduct, unsatisfactory performance, and persistent violations of District regulations in performance of her duties. The District issued Garcia letters of reprimand on May 9, 2024 and October 8, 2024. Garcia submitted rebuttals in both instances; AETA did not challenge either reprimand on Garcia's behalf. On January 9, 2025, the District issued Garcia a Notice of Unprofessional Conduct and Unsatisfactory Performance.[5] Garcia informed the AETA Executive Board and on January 10, Garcia sent the District a rebuttal to the Notice. AETA did not file a grievance challenging the discipline, however.

Also during the 2024-2025 school year, Garcia was vocal about special education services for certain District students. On December 17, 2024 and January 23, 2025, Garcia e-mailed the District's Board of Trustees (District Board) regarding these concerns. On February 7, 2025, the District directed Garcia to stop contacting the District Board.[6] Subsequently, on February 9, Garcia filed a complaint with the U.S. Department of Education, Office for Civil Rights (OCR) alleging that the District failed to comply with special education laws and retaliated against Garcia. On February 11, Garcia filed an inquiry with the Merced County grand jury regarding her concerns. Later, on March 27, Garcia filed a complaint with the California Civil Rights

[5] Under section 44938 of the Education Code, a public school district must give certificated teachers either 45- or 90-days' notice if they intend to suspend or terminate them.

[6] All subsequent dates are in 2025 unless otherwise indicated.

Department alleging age and sex discrimination under the California Fair Employment and Housing Act.

Garcia's Unfair Practice Charge

Garcia filed an unfair practice charge on November 21, 2024, alleging that AETA had violated EERA by (1) breaching its duty of fair representation, (2) engaging in age discrimination, and (3) retaliating against her. AETA responded on December 23, 2024. Subsequently, Garcia amended the charge multiple times.

On July 9, 2025, OGC issued a warning letter to Garcia, informing her that her amended charge did not state a prima facie case of any EERA violation. OGC further explained that Garcia had failed to allege a date when certain allegations had occurred, and that those allegations would be dismissed if she did not amend her charge and establish timeliness. In the same letter OGC further informed her that it would dismiss the charge unless she amended it to state a prima facie case prior to July 23.

Garcia filed a Sixth Amended Charge on July 18, and she thereafter amended her charge again on August 5 and August 8. In those amended filings, Garcia reiterated her allegations that AETA had breached its duty of fair representation, engaged in age discrimination, and retaliated against her. OGC determined that the amendments did not cure the deficiencies outlined in its warning letter. As a result, OGC dismissed the charge on August 11.

Garcia's Appeal and the Board's Order to Show Cause

Garcia appealed the dismissal on August 12, and AETA timely filed an opposition to the appeal on September 12.[7] AETA's opposition took issue with the substance of Garcia's appeal and described in detail multiple citations to nonexistent PERB decisions.

Upon review of Garcia's filing, the Board determined that the PERB cases Garcia cited did not exist. Garcia's appeal contained citations to three nonexistent PERB decisions: "Teamsters Local 150 (PERB Dec. No. 2789)"; "SEIU Local 721 (PERB Dec. No. 2544)"; and "UTLA (PERB Dec. No. 2255)." Garcia cited these three nonexistent decisions repeatedly, for a wide variety of supposed legal principles. The three nonexistent decisions were the only authority Garcia cited in her appeal.

On October 1, the Board issued an order to show cause (OSC) giving Garcia the opportunity to demonstrate why the Board should not dismiss her appeal and issue monetary and non-monetary sanctions because of this conduct. The Board also directed Garcia to explain the source(s) of the fabricated citations and her method(s) in conducting research to support her appeal.

Garcia filed her response to the OSC on October 2. In her response, Garcia admitted that she had included citations which she obtained using AI. She stated that she did not know that the citations were fabricated and that the inclusion of nonexistent cases was inadvertent. She stated that she had filed her appeal in good faith and that monetary sanctions were unwarranted. Garcia concluded that she would

[7] The Appeals Office granted an extension of AETA's deadline to respond to Garcia's appeal.

"ensure that all future filings rely only on PERB's official decision database and that no citations [would] be included without direct verification." Her response also included the statement that the "Board has consistently held that pleadings are construed liberally in favor of self-represented charging parties, particularly when errors are not willful."

Upon receipt of Garcia's response, the Board issued a letter to the parties on October 7 giving AETA until October 22 to reply. In its reply, AETA argued that Garcia had failed to establish good cause why her appeal should not be dismissed. AETA further stated that its priority was resolving the underlying matter, not in having PERB issue monetary sanctions against Garcia.[8]

DISCUSSION

Under PERB Regulation 32635, an appeal shall "[s]tate the specific issues of procedure, fact, law or rationale to which the appeal is taken." Reliance on fabricated case law or misstated legal rationale constitutes a violation of this regulation. This

[8] On November 3, while the appeal was pending, Garcia filed a document titled "Seventh Amended Unfair Practice Charge" with PERB. On November 20, she filed a supplement to that document. PERB Regulation 32621 provides that the charging party may file an amended charge "[b]efore the Board agent issues or refuses to issue a complaint." Here, OGC refused to issue a complaint on August 11. As such, and notwithstanding any communications Garcia received from OGC, Garcia's November 3 "amendment" and the November 20 supplement are invalid. However, even were we to consider the merits of these filings, the outcome of this case would not be altered. Although Garcia includes new factual allegations in her November 3 and November 20 filings, she does not establish good cause for doing so under PERB Regulation 32635(b). And in any event, the new allegations do not properly address or resolve the deficiencies described in the warning and dismissal letters, viz., that Garcia's charge is devoid of any facts showing that AETA violated its duty of fair representation by refusing to represent her in disciplinary proceedings with the District.

includes reliance on cases that are generated by AI but do not actually exist. In recent years, fraudulent legal citations resulting from reliance on generative AI have become an increasing problem. Courts have noted that the "issue of AI programs populating and citing to fake or nonexistent legal authority, what has become known as AI 'hallucinations,' is an issue for courts that is becoming far too common." (*Noland v. Land of the Free, L.P.* (2025) 114 Cal.App.5th 426, p. 443, citing *Powhatan County School Board v. Skinger* (E.D. Va., June 2, 2025, No. 3:24cv874) 2025 WL 1559593, at *9.) And the problem of AI hallucinations seems only to be getting worse, not better, with the hallucination rates of newer AI systems as high as 79 percent.[9]

Many courts confronted with AI-generated authorities have concluded that filing briefs containing fabricated legal authority is sanctionable.[10] While we decline to issue monetary sanctions in the instant case for the reasons explained *post*, the Board will consider issuing monetary sanctions in future cases where parties, including self-represented parties, submit filings that include citations to nonexistent case law or unsupported legal principles.

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[9] Metz and Weise, *A.I. Is Getting More Powerful, but Its Hallucinations Are Getting Worse*, N.Y. Times (May 6, 2025) https://www.nytimes.com/2025/05/05/technology/ai-hallucinations-chatgpt-google.html [last accessed December 12, 2025].

[10] We are sensitive to the fact that PERB is not a court, but an administrative agency, and that the formalities of practice and procedure in the judicial system are not always appropriate for fulfilment of PERB's mission. (*County of San Luis Obispo* (2015) PERB Decision No. 2427-M, p. 28.) However, inclusion of fabricated cases or statements of law wastes the agency's resources and prevents PERB from addressing valid constituent concerns. As such, we have looked to the courts in determining how to address the issue of AI fabrications.

I. Reliance on Fabricated Cases Violates PERB Regulations

As noted above, PERB Regulations require an appeal to identify the specific issues of procedure, fact, law or rationale to which the appeal is taken and the grounds for each issue stated. (PERB Reg. 32635(a)(1), (3); *State Employees Trades Council United (Ventura, et al.)* (2009) PERB Decision No. 2069-H, p. 6.) The purpose of the regulation is to "afford the respondent and the Board an adequate opportunity to address the issues raised." (*Ibid*.)

Here, Garcia admitted to using AI tools to draft her appeal and admitted that she did not verify the hallucinated citations upon which she relied. In her response, Garcia stated that relying on artificial intelligence was an "honest mistake" and argued that, because she is self-represented, she was unfamiliar with Board precedent and mistook the fabricated citations to be accurate. While it is true that Garcia is self-represented, all precedential PERB decisions are available on the agency's publicly accessible website, free of charge, without need for legal research software. (https://perb.ca.gov/decisions/ [last accessed December 12, 2025].) As such, parties should not use the results of an AI search without checking the veracity of AI-generated PERB case law citations (or quotes or paraphrased statements of law purportedly from such cases).[11] They can do so via the Decisions tab on PERB's website. This feature allows users to search for cases by, among other things, party name or decision number. PERB also makes its precedential decisions available online via a "Topic Index" which allows users to sort cases by subject matter.

[11] Indeed, parties must check the veracity of any and all case law citations, whether from PERB or any other source, and verification is required when citing statutes, regulations, judicial case law, or other authorities.

(https://perb.ca.gov/decisions/browse-by-topic/ [last accessed November 6, 2025].) One section in the Topic Index is titled, "Union Unfair Practices; Duty of Fair Representation." The PERB website not only provides copies of the precedential decisions, but case summaries for each topic and each case as well.

In this case, one particularly problematic aspect of Garcia's conduct is that she simply declined to use the time allotted to her to research and write an appeal. Indeed, Garcia filed her appeal less than 24 hours after OGC dismissed her charge. She had ample time—19 additional days—to ensure that the cases upon which she relied were legitimate. Her failure to do so resulted in a violation of the requirement under PERB Regulation 32635 that an appeal shall "[s]tate the specific issues of procedure, fact, law or rationale to which the appeal is taken." Garcia's extensive reliance on nonexistent PERB case law violates PERB Regulation 32635(a) and justifies striking Garcia's appeal entirely.

Moreover, the Board has authority to issue monetary and non-monetary sanctions against Garcia, including but not limited to awarding AETA reasonable attorney fees for the time and resources spent responding to Garcia's bad faith appeal. (*Palomar Health* (2024) PERB Decision No. 2895-M, p. 67 [sanctions proper if a party's claim, defense, motion, or other action or tactic was without arguable merit and pursued in bad faith]; *Los Rios Community College District and Los Rios College Federation of Teachers, Local 2279* (2018) PERB Decision No. 2614, pp. 4-6 [discussing monetary and non-monetary litigation sanctions]; *City of Alhambra* (2009) PERB Decision No. 2037-M, pp. 2-4 [explaining basis for award of attorney fees and litigation costs]; see also, e.g., Gov. Code, § 11455.30(a).) To determine whether a

claim, defense, motion, or other action is frivolous, we examine whether it is so manifestly erroneous that no prudent representative would have filed or maintained it. (*Palomar Health*, *supra*, PERB Decision No. 2895-M, p. 67.) To determine whether a party acted with subjective bad faith, we examine whether the party's conduct was dilatory, vexatious, or otherwise an abuse of process, and we may infer such intent from circumstantial evidence. (*Ibid*.)

Garcia asserts that "the Board has consistently held that pleadings are construed liberally in favor of self-represented charging parties, particularly when errors are not willful." However, she did not provide even a single citation for this purported legal principle, let alone provide enough support to establish that the Board has reached this specific holding "consistently." Examining principles that are the closest match in PERB precedent to those that Garcia espouses, we find they do not change the fact that it is bad faith conduct if a party or representative fails to verify AI-generated citations. It is the case that PERB applies a relatively liberal pleading standard, and maintains a preference for hearing cases on their merits, notwithstanding technical non-compliance with matters of form. *(Eastern Municipal Water District* (2020) PERB Decision No. 2715-M, p. 7.) And as stated above, the Board is sensitive to the fact that PERB is not a court, but an administrative agency, and that the formalities of practice and procedure in the judicial system are not always appropriate for fulfillment of PERB's mission, which includes assisting parties and representatives who are laypersons. (*Ibid*.) However, the availability of such assistance does not excuse self-represented parties from verifying the accuracy of their representations in documents they file with PERB.

Moreover, the Board issued the OSC on October 1, providing a deadline two weeks from that date for Garcia to file her response. Garcia filed her response at 12:05pm on October 2. While the Board appreciates expeditious responses to its requests, Garcia's failure once again to take the time to substantiate and verify a statement of law, particularly when she had 13 additional days to do so, does not demonstrate good faith.

Based on Garcia's reliance on fabricated cases, we have determined that Garcia pursued her appeal in bad faith. Because Garcia is self-represented, and because this is a matter of first impression, we decline to issue monetary sanctions in this instance. In the future, however, litigants and representatives appearing before PERB, including self-represented parties, are now on notice that they are expected to know about the risk of AI hallucination.[12]

II. Garcia's Appeal Is Denied

Even if Garcia had not relied on nonexistent cases and fabricated statements of law, her case must be dismissed because she failed to establish a prima facie case. (PERB Reg. 32620(b)(5).) In resolving an appeal from a dismissal, we review OGC's determinations de novo. (*City and County of San Francisco* (2020) PERB Decision No. 2712-M, p. 2.) Having considered Garcia's arguments and the entire case file, we find no cause to disturb OGC's conclusions that several of Garcia's allegations were

[12] Had an attorney representative relied on fabricated case law, the Board would have been more inclined to issue sanctions even in this initial case, and indeed will likely not hesitate to do so in any future cases. It is a fundamental duty of attorneys to read the legal authorities they cite in order to determine that the authorities exist and stand for the propositions for which they are cited. (See Rules Prof. Conduct, rules 1-1, 1-3.)

untimely, that she failed to state a prima facie case that AETA violated its duty of fair representation, and that she failed to state a prima facie case that AETA retaliated against her. We also agree with OGC's determination that PERB does not have jurisdiction over claims of age discrimination. (*Alum Rock Union Elementary School District* (2005) PERB Decision No. 1748, p. 2.) Accordingly, we affirm the dismissal and deny Garcia's appeal based on the underlying merits as well.

ORDER

The amended charge in Case No. SA-CO-682-E is DISMISSED WITHOUT LEAVE TO AMEND.

Members Krantz, Paulson, Krausse, and Ortega joined in this Decision.