

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



CITY OF SALINAS,

Employer,

and

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Exclusive Representative.

Case No. SF-IM-185-M

Request for Stay

PERB Order No. Ad-454-M

October 20, 2017

Appearance: Weinberg, Roger, and Rosenfeld by Kerianne R. Steele and Anthony J. Tucci, Attorneys, for Service Employees International Union Local 521.

Before Gregersen, Chair; Banks and Winslow, Members.

DECISION

WINSLOW, Member: This case is before the Public Employment Relations Board (PERB or Board) on Service Employees International Union Local 521's (SEIU) request for a stay of activity pending its appeal from an administrative determination by PERB's Office of the General Counsel. The Office of the General Counsel denied SEIU's request for factfinding under section 3505.4 of the Meyers-Milias-Brown Act (MMBA).¹

SEIU's factfinding request concerns a dispute with the City of Salinas (City) over appointments to a grievance board that resolves disciplinary matters for bargaining unit members. According to SEIU, the County has terminated negotiations and announced that it will proceed unilaterally. However, the Office of the General Counsel denied SEIU's factfinding request because there was no written notice of a declaration of impasse, as required by MMBA section 3505.4, subdivision (a).

¹ The MMBA is codified at Government Code section 3500 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

PERB Regulation² 32370 provides:

An appeal will not automatically prevent the Board from proceeding in a case. Parties seeking a stay of any activity may file a request for a stay with the administrative appeal which shall include all pertinent facts and justification for the request. The Board may stay the matter, except as is otherwise provided in these regulations.

This regulation allows us to stay the Board's own processes. Thus, the Board may grant a stay when "the Board's action or order would be rendered unnecessary should the Board reverse the Board agent's ruling." (*City of Carson* (2003) PERB Order No. Ad-323-M, p. 3.)

Here, there is no *Board* action or order that would be rendered unnecessary if we were to reverse the Office of the General Counsel's denial of SEIU's factfinding request. Rather, the basis for SEIU's stay request is that "[t]he City may not be allowed to unilaterally select members of the Grievance Board without first fulfilling its obligations under section 3505.4 of the MMBA and PERB Regulation[] 32802." (Request for Stay, p. 2.) This is beyond the scope of a stay of activity. The remedy for a party seeking to prevent another party from acting unlawfully is a request for injunctive relief under PERB Regulation 32450. Therefore, SEIU's request for a stay of activity is denied.

ORDER

Service Employees International Union Local 521's request for a stay of activity is hereby DENIED.

Chair Gregersen and Member Banks joined in this Decision.

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