



PERB & CPER

PRESENT

A STEP BY STEP

ANALYSIS OF THE PROCESS

PERB'S 30TH ANNIVERSARY CONFERENCE



PUBLIC EMPLOYMENT RELATIONS BOARD

Board Office
1031 18th Street, Board Suite 204
Sacramento, CA 95814-4174
Telephone: (916) 323-8000
Fax: (916) 327-7960



September 21, 2006

Dear Conference Participants:

The PERB and CPER are proud to welcome you to PERB's 30th anniversary conference: "A Step by Step Analysis of the Process." For the past 30 years, the Board has sought to improve employer-employee relations in the State of California. In so doing, PERB has developed an extensive expertise in the field of labor relations.

Today, we hope to share our expertise with those of you who are and will be practicing before PERB. To that end, we have assembled an incredible group of conference panelists who possess a tremendous breadth of knowledge. They include seasoned representatives from both sides of the bargaining table, as well as past and present Board Members and employees. Today's program, although geared toward new practitioners, should provide a little something for everyone.

Thank you for sharing PERB's 30th anniversary. We hope you will enjoy the conference and look forward to working with you over the next 30 years.

Sincerely,

John C. Duncan
Chairman

PERB/CPER CONFERENCE
“PERB: A Step by Step Analysis of the Process”
September 21, 2006

California Environmental Protection Agency
1001 “I” Street (Byron Sher Auditorium)
Sacramento, California

REGISTRATION and Continental Breakfast	8:00 – 9:00 a.m.
WELCOME: John Duncan, Chairman, PERB, and Carol Vendrillo, Editor, CPER	9:00 a.m.
PANEL ONE: <i>When the Charge is Filed</i>	9:15 - 10:45 a.m.
<i>Moderator:</i> Robin Wesley, Acting General Counsel, PERB Kristin Rosi, Regional Attorney, PERB, Oakland Mary Creith, Regional Attorney, PERB, Los Angeles Matthew Gauger, Partner, Weinberg, Roger & Rosenfeld – Union Roman J. Muñoz, Attorney, Kronick, Moskowitz, Tiedemann & Girard – Management	
BREAK	10:45 – 11:00 a.m.
PANEL TWO: <i>Settlement Conferences</i>	11:00 a.m. - 12:30 p.m.
<i>Moderator:</i> Les Chisholm, Sacramento Regional Director, PERB Robert Thompson, Former General Counsel, PERB Marc Hurwitz, Regional Attorney, PERB, Los Angeles Keith Pace, Field Director, California School Employees Association – Union Charles Sakai, Partner, Renne, Sloan, Holtzman & Sakai – Management	
LUNCH including a Panel Discussion: <i>A Retrospective of PERB</i>	12:30 - 2:00 p.m.
<i>Moderator:</i> Carol Vendrillo, Editor, California Public Employee Relations Journal John Duncan, Chairman (2004 – Present) Debbie Hesse, Former Chairperson (1984 – 1994) John Jaeger, Former Board Member (1981 – 1986) Barbara Moore, Former Board Member (1979 – 1981) Jerilou Cossack, Former Board Member (1976 – 1979)	
PANEL THREE: <i>If the Charge Goes to Hearing</i>	2:00 - 3:30 p.m.
<i>Moderator:</i> Fred D’Orazio, Chief Administrative Law Judge, PERB Tom Allen, Administrative Law Judge, PERB Christine Bologna, Administrative Law Judge, PERB Bernard McMonigle, Administrative Law Judge, PERB Arthur Krantz, Attorney, Leonard Carder – Union Wendi Ross, Attorney, Department of Personnel Administration – Management	
BREAK	3:30 - 3:45 p.m.
PANEL FOUR: <i>Appeal of a Dismissal or Proposed Decision</i>	3:45 – 5:00 p.m.
<i>Moderator:</i> Greg Lyall, Legal Adviser, PERB John Duncan, Chairman, PERB Heather Glick, Legal Adviser, PERB Rosalind Wolf, Attorney, California Teachers Association – Union Paul Loya, Partner, Atkinson, Andelson, Loya, Ruud & Romo – Management	
CONFERENCE ADJOURNMENT	5:00 p.m.

PERB OVERVIEW

An Introduction to the Board

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency that oversees collective bargaining statutes encompassing 7,000 public employers and over 2 million employees. The Board itself is composed of up to five members appointed by the Governor and subject to confirmation by the State Senate. Board members are appointed to five-year terms, with the term of one member expiring at the end of each calendar year. Current members are: John C. Duncan, Chair, Lilian S. Shek, Sally M. McKeag, and Karen L. Neuwald. Biographical information for the Board's current members is provided below.

John C. Duncan was appointed to the Board and designated Chairman by Governor Arnold Schwarzenegger February 2004. Prior to his appointment, he was president of Duncan Consulting, Inc. and served as a member of the Governor-Elect's Transition Team staff. Mr. Duncan previously served in the cabinet of Governor Pete Wilson. He was the Director of the Department of Industrial Relations and principal advisor to Governor Wilson on labor and employment issues. Following that service, he was chairman of the California Employment Training Panel. Before his state service, Mr. Duncan was special assistant to then Secretary of Defense, Caspar Weinberger. He was assistant to the secretary at the Department of Defense from 1985 to 1987, and special assistant to the deputy assistant secretary of defense for International Security Affairs, East Asia and Pacific Affairs from 1983 to 1984. Mr. Duncan is a graduate of the University of California, Berkeley with a bachelor's degree in History and holds a masters degree in Public Administration from Harvard University's John F. Kennedy School of Government. His term expires on December 31, 2008.

Lilian S. Shek was appointed to the Board by Governor Arnold Schwarzenegger November 2004. Prior to her appointment, she was an Administrative Law Judge II for the Unemployment Insurance Appeals Board, where she served from April, 1992 to November, 2004. In 1994, Governor Pete Wilson appointed her to the Governor's Advisory Selection Committee, the Regents of the University of California. Before April, 1992, she was an attorney in private practice, an assistant professor and lecturer in business law at California State University, Sacramento; a hearing officer for the Sacramento County Civil Service Commission; and a judge pro tem for the Small Claims Department of Sacramento County Superior and Municipal Courts. She was an assistant counsel for the California Farm Bureau Federation; and received a Reginald Heber Smith Community Lawyer Fellowship to serve as a staff attorney for the San Francisco Neighborhood Legal Assistance Foundation and Legal Services of Northern California. She was actively involved in several professional organizations. She was a Barrister of the Anthony M. Kennedy American Inns of Court; Chair of the California State Bar Committee on Women in the Law; President of Women Lawyers of Sacramento; and a member of the American Women Judges Delegation to the People's Republic of China. She earned her Bachelor of Arts degree in Sociology from the University of California, Berkeley; her Doctor of Jurisprudence degree from Hastings College of the Law, University of California; and her Masters of Business

Administration degree from California State University, Sacramento. Her term expires on December 31, 2007.

Sally M. McKeag was appointed to the Board by Governor Arnold Schwarzenegger in March 2005. Prior to her appointment, she served as Chief Deputy Director of the California Employment Development Department since January 2004. She also served as Deputy Staff Director of the Governor-Elect's Transition Team. Her term ends on December 31, 2006.

Ms. McKeag initially served as Chief of Staff to the Department of Labor's Employment and Training Administration Assistant Secretary, and then assisted in the creation of ETA's Business Relations Group (BRG). The BRG applies innovative approaches to help business and industry better access the services of the state and local workforce investment system and to ensure the workforce investment system understands the skills and training needs of the 21st Century workforce.

Ms. McKeag served in a variety of capacities for the California State Senate and the Wilson Administration. Specifically, she was Director of Public Affairs for the Senate Republican Caucus where she oversaw the development and implementation of strategies to support Senate members in representing their constituencies. Under Governor Pete Wilson, she served as Deputy Director of Operations for the Department of Consumer Affairs, Acting Deputy Director of the Department of Fish and Game, and Director of the Governor's Office of Constituent Affairs. Prior to the Wilson Administration, she served in the Reagan and Bush Administrations in Washington, D.C. She was the Director of the Executive Secretariat at the Environmental Protection Agency, overseeing the coordination of all correspondence and other official documents for the EPA Administrator. Ms. McKeag was also Special Assistant to the Secretary of the Interior, supervising all functions related to scheduling of the Secretary's participation in official and political events.

Karen L. Neuwald was appointed to the Board July 2005. Prior to her appointment she was the Chief of the Office of Governmental Affairs at the California Public Employees' Retirement System for two years. She served as the Assistant Director for legislation at the Department of General Services from November, 1996 to July, 2003. For 11 years prior to DGS, Ms. Neuwald worked at the Department of Personnel Administration. She began her career at DPA working on policy and legal issues, and then spent six years directing DPA's legislative program. Ms. Neuwald had her entrée in state government in 1982 working as an analyst at the Legislative Analyst's Office. As a program analyst, she worked on budget matters related to employee compensation, collective bargaining, health care, and retirement issues. Overall, Ms. Neuwald has enjoyed a 24 year career in state government service. Ms. Neuwald is a graduate of the University of Oklahoma and the University of Texas, where she received a master's degree in public affairs. Her term expires on December 31, 2009.

Statutory Authority and Jurisdiction

The Board now administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB since the mid-1970's are: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code sec. 35401, et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code sec. 3512, et seq.), establishing collective bargaining for State Government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code sec. 3560, et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968 (Gov. Code sec. 3500, et seq.), which established collective bargaining for California's city, county, and local special district employers and employees. PERB's jurisdiction over the MMBA excludes peace officers, management employees and the City and County of Los Angeles.

On January 1, 2004, PERB's jurisdiction was expanded to include the supervisory employees of the Los Angeles County Metropolitan Transportation Authority. The Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) is codified at Public Utilities Code sec. 99560, et seq.

Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Employment Protection and Governance Act of 2000 (Gov. Code sec. 71600, et seq.) and the Trial Court Interpreter Employment and Labor Relations Act of 2002 (Gov. Code sec. 71800, et seq.).

Purpose and Duties of the Board

In addition to the overall responsibility for administering the seven statutes, the Board acts as an appellate body to hear challenges to proposed decisions that are issued by the Board agents in the Office of the General Counsel. Decisions of the Board itself may be appealed under certain circumstances, and then only to the state appellate courts. The Board, through its actions and those of its agents, is empowered to:

- Conduct elections to determine whether employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- Prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- Deal with impasses that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;

- Ensure that the public receives accurate information and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- Interpret and protect the rights and responsibilities of employers, employees and employee organizations under the Acts;
- Bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- Conduct research and training programs related to public sector employer-employee relations;
- Take such other action as the Board deems necessary to effectuate the purposes of the Acts that it administers.

Major PERB Functions

The major functions of PERB involve: (1) the investigation and resolution of unfair practice charges; (2) the administration of the representation process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (3) the appeals of Board staff determinations to the Board itself; and (4) the legal functions performed by the Office of the General Counsel. Each of these four functions is described in more detail below.

Unfair Practice Charges

The investigation and resolution of unfair practice charges is a major function performed by PERB. Unfair practice charges may be filed with PERB by an employer, employee organization, or employee. These allege an employer or employee organization engaged in conduct that is unlawful under one of the labor statutes administered by PERB. Examples of unlawful employer conduct include refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; or promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; or failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is reviewed by Board agents to determine whether a prima facie violation of the statute has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit a reasonable inference that a violation of the EERA, Dills Act, HEERA, MMBA, TEERA, Trial Court Act or Court Interpreter Act has occurred. If the charge fails to state a prima facie case, a Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is given time to either amend or withdraw its charge. If the charge is not amended or withdrawn, it is dismissed. The charging party then has the option of appealing the dismissal to the Board itself.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent may file an answer to the complaint.

Once a complaint has been issued, a Board agent is assigned to the case and calls the parties together for an informal settlement conference. The conference usually is held within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB Administrative Law Judge (ALJ) is scheduled. That usually occurs within 100 to 120 days from the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party to the case may then appeal the proposed decision to the Board itself. The Board itself may affirm, modify, reverse or remand the proposed decision.

Proposed decisions which are not appealed to the Board itself are binding upon the parties to the case but may not be cited as precedent in other cases before the Board.

Decisions of the Board itself are both binding on the parties to a particular case and precedential. PERB decisions are now available on our website at <http://www.perb.ca.gov>. Interested parties can also now sign-up for electronic notification of new Board decisions. Additionally, unfair practice charges can now be filed electronically. Please visit our website for further information.

Representation Cases

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications which have an internal and occupational community of interest. In most situations, if only one employee organization petition is filed, with majority support, and the parties agree on the description of the bargaining unit, the employer must grant recognition to the employee organization as the exclusive representative of the bargaining unit employees. If more than one employee organization is competing for representational rights of the same bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent holds a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation and/or hearing and issues a written determination. That determination sets forth the appropriate bargaining unit, or modification of that unit, based upon statutory unit determination criteria and appropriate case law. Once an initial bargaining unit has been established, PERB conducts a representation election in cases where the employer has not granted recognition to an employee organization to serve as the exclusive representative. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

Mediation/Fact-Finding

PERB staff also assist parties in reaching negotiated agreements through the mediation process provided in EERA, HEERA, and the Dills Act, and through the fact-finding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations either party may declare an impasse. If that occurs, a Board agent contacts both parties to determine if they have reached a point in their negotiations that further meetings without the assistance of a mediator would be futile. Once PERB has determined an impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

If settlement is not reached during mediation, either party, under EERA and HEERA, may request the implementation of statutory fact-finding procedures. PERB provides lists of neutral factfinders who make findings of fact and advisory recommendations to the parties concerning terms of settlement.

Appeals Office

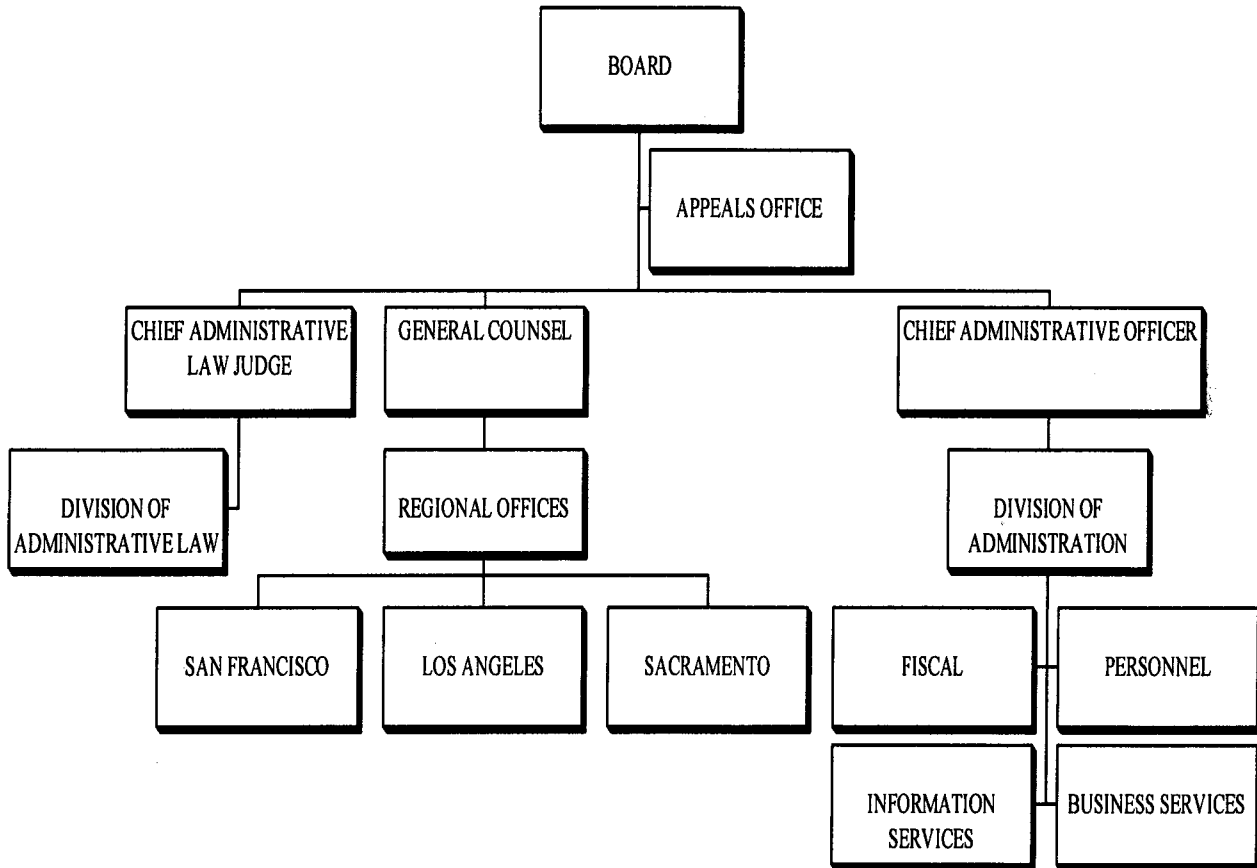
The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. It maintains case files, issues decisions rendered and prepares administrative records filed with California appellate courts. This office is the main contact with parties and their representatives while cases are pending before the Board itself.

Office of the General Counsel

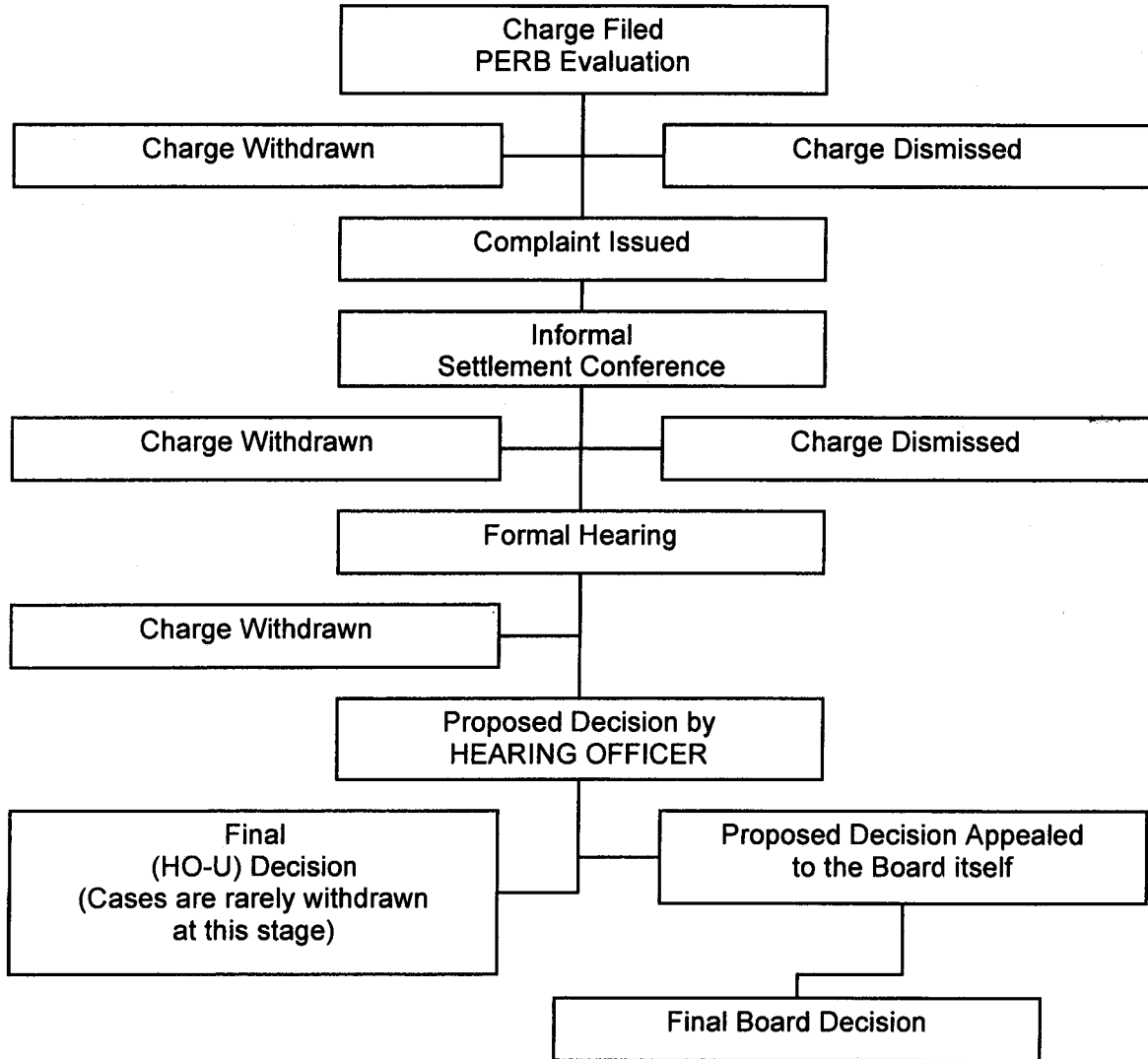
The legal representation function of the Office of the General Counsel includes:

- Defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in state appellate courts;
- Seeking enforcement when a party refuses to comply with a final Board decision, order or ruling, or with a subpoena issued by PERB;
- Seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- Defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- Defending the jurisdiction of the Board, submitting amicus curiae briefs and other motions, and appearing in cases in which the Board has a special interest.

PUBLIC EMPLOYMENT RELATIONS BOARD
Organizational Chart



UNFAIR PRACTICE CHARGE FLOW CHART



PANEL ONE

PANEL ONE:

When the Charge is Filed

9:15 - 10:45 a.m.

Moderator: Robin Wesley, Acting General Counsel, PERB

Panelists: Kristin Rosi, Regional Attorney, PERB, Oakland
Mary Creith, Regional Attorney, PERB, Los Angeles
Matthew Gauger, Partner, Weinberg, Roger & Rosenfeld – Union
Roman J. Muñoz, Attorney, Kronick, Moskowitz, Tiedemann & Girard – Management

Opening Remarks

Introductions

Methods of Filing an Unfair Practice Charge

The Charge Form
Service of Charge
Processing Charge
Respondent's Position Statement

Investigating a Charge

Merits of Case
Warning Letter
Dismissal Letter
Complaint

Union Perspective

Management Perspective

PANEL ONE: When the Charge is Filed

Panel Members

Moderator: Robin Wesley, Acting General Counsel, PERB

Robin Wesley currently serves as PERB's Acting General Counsel. She has worked at PERB for nearly 16 years in several roles, serving as Board counsel, regional attorney and on occasion as a hearing officer. Robin previously served as the Deputy Director for Local Government Affairs in the Office of Planning and Research and as the District Administrative Assistant to a member of the Legislature. Robin is a graduate of Westmont College and the McGeorge School of Law.

Kristin Rosi, Regional Attorney, PERB, Oakland

Kristin L. Rosi currently serves as PERB's Senior Regional Attorney in the San Francisco Regional Office. Kristin has worked at PERB for nearly 11 years, in both the San Francisco and Los Angeles offices. Prior to her PERB employment, Kristin worked at the National Labor Relations Board, CPER, and with the U.S. District Court. Kristin co-authored several publications, including the CPER Pocket Guide to the Dills Act. Kristin is a graduate of Smith College and the University of California, Hastings College of the Law, where she studied under former California Supreme Court Justice Joseph Grodin.

Mary Creith, Regional Attorney, PERB, Los Angeles

Mary Creith has served as a Regional Attorney for the Public Employment Relations Board since 2004. She received a degree in Urban and Regional Planning from California State Polytechnic University, Pomona in 1999 and is a graduate of Loyola Law School, 2002.

See attached resumes for:

Matthew Gauger, Partner, Weinberg, Roger & Rosenfeld

Roman J. Muñoz, Attorney, Kronick, Moskovitz, Tiedemann & Girard

MATTHEW J. GAUGER
Weinberg, Roger & Rosenfeld
A Professional Corporation
428 J Street, Suite 520
Sacramento, California 95814
E-mail: Mgauger@unioncounsel.net
Telephone: (916) 443-6600
Facsimile: (916) 442-0244

Matthew Gauger is a shareholder in Weinberg, Roger and Rosenfeld's Sacramento office. Mr. Gauger represents labor unions in all matters before State and Federal courts, California's Public Employment Relations Board, other administrative agencies, in collective bargaining negotiations, and grievance arbitrations. Mr. Gauger's primary interest is using the law in non-traditional ways. This includes creative avoidance of the National Labor Relations Board, suing employers who cheat their employees out of wages, employers who do not pay the legally required rates to employees, employers who perform construction work without the appropriate contractor licenses, and generally forcing employers in the industrial, construction, service, and public sectors to comply with the law. Mr. Gauger has a very active practice before the Public Employment Relations Board. Mr. Gauger represents several clients against the State Personnel Board in SPB's current Jihad against the labor movement over arbitration of state employee discipline. Mr. Gauger also defends unions in duty of fair representation, discrimination cases, and successfully uses California's SLAPP statute to defend unions from secondary boycott allegations.

Mr. Gauger earned his law degree from University of California, Davis, in 1988 where he was an editor on the Law Review. Mr. Gauger received his undergraduate degree from University of California, Santa Cruz, where he graduated with honors with a double major in Politics and Legal Studies in 1984. Mr. Gauger's previous employers include California Correctional Peace Officers Association (CCPOA) Legal Department from August 1989 to June 1996, and United Farm Workers, AFL-CIO, in 1984-85. Mr. Gauger's other interests include politics, skiing and co-driving a performance rally car on the US Pro-Rally Circuit where he won first place co-driver in his class in the Pacific Northwest Division in 2003 and 2004 and the Western States Rally Championship in 2004 and 2005. Mr. Gauger is tied for first place in his class for 2006.



Roman J. Muñoz
rmunoz@kmtg.com
Phone (916) 321-4500
Fax (916) 321-4555

400 Capitol Mall, 27th Floor
Sacramento, CA 95814

www.kmtg.com

ROMAN MUÑOZ

Mr. Muñoz, an associate in the firm, represents public agencies, including school districts and housing authorities, in the areas of employment law and labor relations. Mr. Muñoz brings extensive experience working in the California State Legislature to his practice as well as experience at a private firm representing education clients.

LEGAL EXPERIENCE

Mr. Muñoz primarily focuses on employment and labor law issues confronting public agencies. In his capacity as advisor to governing boards and public agencies, he counsels them on a variety of legal matters, including:

- Employee discipline and dismissal
- Labor relations
- Board policies
- Contract administration
- Employee benefits
- Employment litigation
- Reductions in force
- Grievance arbitration
- Unfair labor practice proceedings

Prior to joining KMTG, Mr. Muñoz worked for a private law firm in Pleasanton, California, where he represented a number of school districts in education law matters. He also brings extensive experience working in the California State Legislature. While pursuing a law degree, Mr. Muñoz worked as a Legislative Aide to California State Senator Richard G. Polanco, and after graduation, began his legal career as a Graduate Legal Assistant with the California Legislative Counsel. His background also includes serving in the United States Army as a non-commissioned officer.

PRACTICE EXAMPLES

Mr. Muñoz guides clients through the array of procedural requirements for employee dismissals, which include tenure and seniority issues, timely notifications, and administrative hearings. He also helps his clients distinguish between the myriad of statutory and constitutional rights afforded to public employees. Mr. Muñoz works closely with governing boards to negotiate labor agreements that meet their unique operational needs and negotiating objectives.

Continued

PROFESSIONAL ACTIVITIES & AFFILIATIONS

Mr. Muñoz' professional activities and affiliations include:

- Member, American Bar Association
- Member, Sacramento County Bar Association
- Member, Hispanic National Bar Association
- President-Elect, California Council of School Attorneys

Additionally, Mr. Muñoz is a founding member of the Plaza Youth Advantage Program, a program that provides mentors for at-risk youth living in East Los Angeles.

ACADEMIC BACKGROUND

B.A. California State University, Fresno, 1996

J.D. University of the Pacific, McGeorge School of Law, 1999

—Graduated with distinction

—Member, Traynor Honor Society

—Member, Golden Key National Honor Society

—Recipient, Corpus Juris Secundum for Torts

Panel One Materials

Filing and Processing Charges

I. FILING A CHARGE WITH PERB

A. Methods of Filing a Charge

1. Mail – fax – efile
2. Charge filed when received by PERB

B. Charge Form

1. Contact information
2. Applicable statute
3. Attachments
 - a. Relevant contract provisions
 - b. Local rules – MMBA

C. Serve Charge on Respondent, Proof of Service

D. Processing Charge

1. Case number assigned
2. Board agent assigned
3. PERB notification letter
 - a. Describes investigation process
 - b. Time to file respondent's position statement
 - c. Notice of appearance form

E. Respondent's Position Statement

1. Statement signed under penalty of perjury or affirmation
2. Attached documents
3. Served on the charging party

II. INVESTIGATING A CHARGE

A. Investigation by Board Agent

1. Determine whether alleged facts state a prima facie case
2. May contact parties for additional information
3. Credit charging party's facts where disputed

B. Warning Letter

C. Dismissal Letter

Appeal to Board

D. Complaint

Assigned to new Board agent for settlement conference

III. UNION PERSPECTIVE

IV. MANAGEMENT PERSPECTIVE



PUBLIC EMPLOYMENT RELATIONS BOARD

The Public Employment Relations Board (PERB or Board) is an independent, quasi-judicial state agency with responsibility for enforcement of rights and duties under seven public sector collective bargaining statutes: the Educational Employment Relations Act (EERA), the Ralph C. Dills Act, the Higher Education Employer-Employee Relations Act (HEERA), the Meyers-Milias-Brown Act (MMBA), the Trial Court Employment Protection and Governance Act (Trial Court Act), the Trial Court Interpreter and Labor Relations Act (Court Interpreter Act), and the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). These seven laws give PERB jurisdiction over collective bargaining in California public schools (pre-kindergarten through community college); the State of California (state civil service); public higher education (University of California, California State University and Hastings College of Law); local public agencies (cities, counties and special districts); trial courts; and the Los Angeles County Metropolitan Transportation Authority (supervisory employees only), respectively.

The Board itself consists of five members appointed by the Governor with the consent of the State Senate. PERB employs approximately 40 persons in offices located in Sacramento, Los Angeles and Oakland.

PERB has the authority and responsibility, under all seven statutes, to investigate allegations concerning, and to provide remedies for, violations of these acts (and/or violations of local rules, under the MMBA, Trial Court Act and Court Interpreter Act) by either employers or employee organizations.

PERB also has the following functions in administering the EERA, Dills Act, HEERA, and TEERA:

- To determine appropriate bargaining units, and rule on petitions to add or delete positions from an established unit.
- To determine, through secret ballot elections, whether employees wish to be represented by an employee organization for the purpose of negotiating and, if so, which organization.
- To ensure that the public is afforded sufficient information and time to register its opinion regarding negotiations.

Under EERA, Dills Act and HEERA, PERB also oversees statutory impasse procedures whereby negotiations between employers and employee organizations can result in agreement. The Board maintains a list of neutral factfinders who may be chosen by the parties to assist in this process under EERA and HEERA.

In administering the MMBA, Trial Court Act and Court Interpreter Act, PERB has authority and responsibility over matters such as unit determinations, representation petitions and elections only where the local agency has not adopted local rules to govern these matters.

The text of all seven statutes and PERB's Regulations, as well as information about how to use PERB's processes and how to contact PERB, is available on the Internet at www.perb.ca.gov.

1031 18th Street
Sacramento, California
95814-4174
(916) 322-3198

3530 Wilshire Blvd., Suite 1435
Los Angeles, California
90010-2334
(213) 736-3127

1330 Broadway, Suite 1532
Oakland, California
94612-2514
(510) 622-1016



**STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD
UNFAIR PRACTICE CHARGE**

DO NOT WRITE IN THIS SPACE:

Case No: _____

Date Filed: _____

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES

NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name:

b. Mailing address:

c. Telephone number:

d. Name, title and telephone number of person filing charge:

e. Bargaining unit(s) involved:

2. CHARGE FILED AGAINST: (mark one only)

EMPLOYEE ORGANIZATION

EMPLOYER

a. Full name:

b. Mailing address:

c. Telephone number:

d. Name, title and telephone number of agent to contact

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:

b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Government Code section 18524.)

a. Full name:

b. Mailing address:

c. Agent:

¹ An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.

5. GRIEVANCE PROCEDURE

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes No

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code sec. 3540 et seq.)
- Ralph C. Dills Act (Gov. Code sec. 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code sec. 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code sec. 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code sec. 99560 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code sec. 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code sec. 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are:

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (*a copy of the applicable local rule(s) MUST be attached to the charge*):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on _____

(Date)

at _____
(City and State)

(Type or Print Name)

(Signature)

Title, if any: _____

Mailing address: _____

Telephone Number: () _____

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of _____,
State of _____. I am over the age of 18 years and not a party to the within entitled
cause. The name and address of my residence or business is _____

On _____, I served the _____
(Date) (describe document(s))

_____ on the parties listed below (include name, address and, where applicable, fax number) by (check the applicable method or methods):

___ placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid;

___ personal delivery;

___ facsimile transmission in accordance with the requirements of PERB Regulations 32090 and 32135(d).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on _____, at _____.

(Type or print name)

(Signature)

PUBLIC EMPLOYMENT RELATIONS BOARD



Sacramento Regional Office
1031 18th Street
Sacramento, CA 95814-4174
Telephone: (916) 322-3198
Fax: (916) 327-6377



June 25, 2004

SAMPLE INTRODUCTORY LETTER

Matthew Gauger, Attorney
Weinberg, Roger & Rosenfeld
428 J Street, Suite 520
Sacramento, CA 95814-2341

Wayne Heine, Director, Labor Relations
San Joaquin County
24 South Sutter Street, Suite 101
Stockton, CA 95202

Re: SEIU Local 790 v. County of San Joaquin
Unfair Practice Charge No. SA-CE-245-M

Dear Parties:

This is to notify you that the above-referenced charge was filed on June 24, 2004 with the Public Employment Relations Board (PERB or Board) and will be screened initially by the undersigned Board agent under the direction of the General Counsel. The following procedure will be used:

1. I shall review the charge to determine whether it states a prima facie case of an unfair practice. (See PERB Regulation 32620(b)(4).)¹
2. To make this determination I may contact the Charging Party and/or the Respondent to request further information before taking action. The Respondent is hereby notified that it may file a position statement. Any response must be signed under penalty of perjury with a declaration that the response is true and complete to the best of the Respondent's knowledge and belief and must be served on the Charging Party. If no response is filed by July 9, 2004,² I will proceed with my review of the charge and issue a complaint where appropriate. (See Regulation 32620(c).)

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. PERB's Regulations and the statutes administered by the Board may be found by visiting www.perb.ca.gov. Copies of the Regulations and statutes are available for purchase from PERB's Publications Coordinator, 1031 18th Street, Sacramento, CA 95814-4174.

² A document is "filed" on the date the document is **actually received** by PERB, including if transmitted via facsimile. (Regulation 32135.)