

**CHAPTER 1: PUBLIC EMPLOYMENT RELATIONS BOARD**  
**SUBCHAPTER 2. DEFINITIONS AND GENERAL PROVISIONS**

**Article 1. Definitions**

**32090.        e-PERB.**

“e-PERB” means the Public Employment Relations Board’s electronic filing system accessible through the agency’s website.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code.

**32091.        **Electronic Filing.****

“Electronic filing” means the transmission of a document to PERB via e-PERB.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code.

**32092.        **Electronic Signature.****

(a) “Electronic signature” means an electronic sound, symbol, or process attached to, or logically associated with, an electronic record and executed or adopted by a person with the intent to sign the electronic record. Electronic signatures are permitted only where expressly authorized by statute or these PERB regulations.

(b) When a document to be filed electronically requires a signature of any person, whether under penalty of perjury or otherwise, the document is deemed to have been signed by that person when electronically filed. The filing party, when electronically filing a document, certifies that the document has been properly signed or electronically signed. This subsection (b) shall not apply to proof of support under section 32700.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code. California Rule of Court 2.257.

**32093. Electronic Service.**

“Electronic service” means the service of documents under Section 32140 through e-PERB or e-mail.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code.

**32094. Filed.**

“Filed” means a document is received and accepted by PERB after the filing party has complied with applicable statutory and regulatory filing requirements whether filing electronically, in person, or through a mail delivery service.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code.

**Article 2. General Provisions**

**32110. Electronic Filing Requirements.**

(a) Except as otherwise provided by this Chapter, electronic filing is mandatory when filing documents with PERB. For the initial filing of a case, the filing party shall serve all parties pursuant to Section 32140, subdivision (a), and electronically file with PERB the initial filing and a proof of service. After the initial filing of a case, service of documents shall occur automatically through ePERB, except for unrepresented individuals not utilizing ePERB, in which case the filing party must serve the documents by personal delivery, mail, or with another delivery service properly addressed. Electronic filing is not required when submitting documents at formal hearing.

(b) Electronic filing is available but not mandatory for an unrepresented individual. For purposes of this subsection, the term “unrepresented individual” shall mean an individual natural person not represented by an attorney or a union representative. However, an unrepresented individual that files electronically shall be required to electronically file all subsequent documents, and to accept electronic service, unless she or he provides written notice to all parties that future filings shall occur through a different authorized means.

(c) A party filing a document through e-PERB may use an electronic signature as defined in section 32092. However, a party submitting proof of support under section 32700 of these regulations, either through e-PERB or otherwise, may rely on electronic signatures only to the extent permitted under section 32700.

(d) Documents electronically filed shall be in PDF format and text searchable. However, a party lacking the capacity to make a PDF file text searchable shall file the document in a non-

text searchable PDF format, and shall telephonically notify the Board that it has done so. Unless documents are compressed (in a zip file format), the maximum size of any single document that can be electronically filed is 25 MB. For documents larger than 25 MB, the filer shall separate them into multiple parts so that each part is no larger than 25 MB.

(e) Each document shall be filed individually. Attachments and exhibits are part of the document to which they are associated. Where a document exceeds the size limit specified under subsection (c), the document must be split into parts and each filed individually. When a document is filed in multiple parts, each part must be identified as part of the document, e.g., unfair practice charge part 1, unfair practice charge part 2, etc.

(f) Filers may electronically file a document through e-PERB at any time. However, all documents electronically filed after 11:59 p.m. on a business day, or at any time on a non-business day, will be deemed filed the next regular PERB business day. This section shall not apply to requests for injunctive relief whose filing requirements are governed by sections 32450 and 32455.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code.

### **32111. Notices to Employees Assigned Remote Work**

(a) Notwithstanding any regulation under Chapters 1 through 10 of this Division, the Board may direct a public employer to provide notice of filing of a representation petition to its employees by electronic message, intranet, internet site, or other electronic means when the Board determines that a physical posting at the worksite is not practicable or effective because of remote work.

(b) For purposes of this section, the term “remote work” shall mean an arrangement where public employees perform their duties at a location other than a workplace provided by the public employer.

(c) Nothing herein shall prevent the Board from directing a public employer to provide notice by both physical and electronic means.

(d) This section does not limit or otherwise change the authority of the Board itself to order the posting of any notice.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code.

**32115. Location to File Representation Matters.**

- (a) This regulation applies to documents that are not electronically filed. Except as provided for in subsections (b), (c), (d), and (e), the appropriate location for filing documents in representation matters shall be the regional office which serves the county in which the principal office of an employer is located, as described in Section 32075 of these regulations.
- (b) The appropriate location for filing documents in representation matters under the Court Interpreter Act shall be as follows: in the case of Regions 1 and 4, the Los Angeles Regional Office; for Region 2, the San Francisco Regional Office; and for Region 3, the Sacramento Regional Office.
- (c) The Sacramento Regional Office shall be the appropriate location for filing all documents in representation matters relating to the State of California.
- (d) The San Francisco Regional Office shall be the appropriate location for filing documents in representation matters relating to the University of California or Hastings College of the Law.
- (e) The Los Angeles Regional Office shall be the appropriate location for filing documents in representation matters relating to the California State University.
- (f) Notwithstanding the above, documents filed through e-PERB shall be deemed filed at the appropriate location.

Authority cited: Sections 3509, 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code.

Reference: Sections 3509, 3524, 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1, 71807 and 71825, Government Code; and Section 99561(m), Public Utilities Code.

**32125. Filing Confidential Documents**

- (a) Unless the Board orders otherwise, in an electronic or paper filing that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:
  - (1) the last four digits of a social-security number or taxpayer-identification number, or, alternatively, a non-sensitive placeholder number in place of a social-security number or taxpayer-identification number;
  - (2) the year of the individual's birth;
  - (3) the minor's initial, or, alternatively, a non-sensitive, de-identified, and non-identifiable placeholder in place of the minor's name; and
  - (4) the last four digits of a financial-account number, or, alternatively, a non-sensitive placeholder number in place of a financial-account number.

(b) Prior to filing any document with PERB, a party shall redact the document as necessary to comply with subsection (a) and shall endeavor to redact other sensitive information that is not relevant to resolution of any matter before PERB. When redacting a document, a party shall endeavor to substitute non-sensitive and de-identified placeholders if needed to make a document or set of documents understandable.

(c) The Board may take any or all of the following measures to protect sensitive information:

(1) direct a party to refile or resubmit a document with redactions or modifications as requested by the Board, and in such cases the filing shall be deemed to be retroactive to the original filing date unless otherwise ordered by the Board; and

(2) protect sensitive information by redacting or modifying a document, placing all or part of a document under seal, or otherwise limiting public access to a document in a manner that complies with the Board's legal obligations and authority.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3, 3544.7(b), 3551(a), 3555.5(c), 3563, 3577(b), 71639.1, and 71825, Government Code, and Sections 99561 and 99564.4(b), Public Utilities Code.

**32130. Computation of Time.**

(a) In computing any period of time under these regulations, except under Section 32776(c), (d), (e) and (f), the period of time begins to run the day after the act or occurrence referred to.

(b) Whenever the last date to file a document falls on Saturday, Sunday, or a holiday, as defined in Government Code Sections 6700 and 6701, or PERB offices are closed, the time period for filing shall be extended to and include the next regular PERB business day. The extension of time provided herein shall be applied subsequent to the application of any other extension of time provided by these regulations or by other applicable law.

(c) A five day extension of time shall apply to any filing made in response to documents served by mail if the place of address is within the State of California, ten days if the place of address is outside the State of California but within the United States, and twenty days if the place of address is outside the United States. No extension of time applies in the case of documents served in person, or by electronic service as permitted by section 32140.

(d) A two day extension of time shall apply to any filing made in response to documents served by overnight delivery.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3, 3544.7(b), 3551(a), 3555.5(c), 3563, 3577(b), 71639.1 and 71825, Government Code; and Sections 99561 and 99564.4(b), Public Utilities Code.

**32132. Extension of Time.**

(a) A request for an extension of time within which to file any document with the Board itself shall be in writing and shall be filed at the headquarters office at least three days before the expiration of the time required for filing. The request shall indicate the reason for the request and, if known, the position of each other party regarding the extension. Service and proof of service pursuant to Section 32140 are required. Extensions of time may be granted by the Board itself or an agent designated by the Board itself for good cause only.

(b) No extensions of time shall be granted in cases before the Board itself that are subject to the limitations described in Section 32305(b).

(c) A request for an extension of time within which to file any document with a Board agent shall be in writing and shall be filed with the Board agent at least three days before the expiration of the time required for filing. The request shall indicate the reason for the request and, if known, the position of each other party regarding the extension and shall be accompanied by proof of service of the request upon each party. Extensions of time may be granted by the Board agent for good cause only. A Board agent may accept and approve a late filed request for an extension of time as provided for in Section 32136.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(n), 3541.35, 3563(m), 3551(a), 3555.5(c), 3563.5, 71639.1, 71639.15, 71825 and 71825.05, Government Code; and Sections 99561(m) and 99561.4, Public Utilities Code.

**32135. Non-Electronic Filing.**

The following rules shall apply to parties authorized to file documents by a mail delivery service or in person:

(a) All documents not filed through e-PERB shall be considered “filed” when the originals are actually received by the appropriate PERB office, as stated in section 32115 of these regulations, during a regular PERB business day. All documents, except for proof of support as described in sections 32700, must also be accompanied by proof of service pursuant to Section 32140.

(b) Documents must be scan-ready, which means that documents must not be stapled or otherwise bound. Parties may submit two-sided documents.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code.

**32136. Late Filing.**

A late filing may be excused in the discretion of the Board for good cause only. A late filing which has been excused becomes a timely filing under these regulations. An error or malfunction of e-PERB shall be deemed good cause for late filing.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; Sections 12, 12(a) and 1013, Code of Civil Procedure; and Section 99561(m), Public Utilities Code.

**32140. Service; Proper Recipient for Filing or Service**

(a) All documents referred to in these regulations requiring “service,” except subpoenas, shall be considered “served” by the Board or a party when personally delivered, when deposited in the mail or with a delivery service properly addressed, or when sent by electronic service, as defined by Section 32093, and authorized in subdivision (b) of this section. All documents required to be served shall include a “proof of service” declaration signed under penalty of perjury which contains the following information: (1) The name of the declarant; (2) the county and state in which the declarant is employed or resides; (3) a statement that the declarant is over the age of 18 years; (4) the address of the declarant; (5) a description of the documents served; (6) the method of service and a statement that any postage or other costs were prepaid; (7) the name(s), address(es) and, if applicable, fax number(s) or electronic mail address(es) used for service on the party(ies); and (8) the date of service.

(b) Electronic service of a document is authorized only when a party has agreed to accept service electronically in that action. A party indicates that the party agrees to accept electronic service by:

(1) Serving a notice on all parties that the party accepts electronic service and filing the notice with the Board. The notice must include the electronic mail address at which the party agrees to accept service; or

(2) Electronically filing any document with the Board. The act of electronic filing is evidence that the party agrees to accept service at the electronic mail address the party has furnished to the Board.

(c) Whenever “service” is required by these regulations, service shall be on all parties to the proceeding and shall be concurrent with the filing in question.

(d) Whenever a document is required to be “filed” or “served” with any of the below listed entities, the proper recipient shall be:

(1) The Board: the appropriate or designated regional office (see, e.g. Section 32075) unless the headquarters office is specified, or the document is filed through e-PERB;

(2) The Board itself: only at the headquarters office unless the document is filed through e-PERB;

(3) An employer

(A) in the case of a public school employer: the superintendent, deputy superintendent, or a designated representative of a school district; or to the school board at a regular or extraordinary meeting;

(B) in case of a state employer: The Governor or his designated representative on behalf of the State of California;

(C) in the case of a higher education employer:

(i) If the employer is the Regents of the University of California, the Office of the General Counsel of the University;

(ii) If the employer is the Directors of Hastings College of the Law, the Office of the General Counsel of Hastings;

(iii) If the employer is the Trustees of the California State University for unfair practice proceedings, service shall be on the Office of the General Counsel of the California State University; for representation proceedings, filing or service shall be on the Office of the Director of Employee Relations.

(D) in the case of a public agency employer as defined in Government Code section 3501(c): the chief executive officer, chief legal counsel, or individual whose job responsibilities includes receiving official documents on behalf of the chief executive officer, governing board, or chief legal counsel.

(E) in the case of a transit district employer as defined in Public Utilities Code section 99560.1(g), any person authorized to act on behalf of the employer.

(F) in the case of a trial court employer as defined in Government Code section 71601(k) or 71801(k): the individual designated to receive service or the executive officer.

(G) in the case of a regional committee employer as defined in Government Code section 71801(h) and 71807: the individual designated to receive service or the chair of the regional committee.

(H) in the case of the Judicial Council: the Administrative Director of the Courts or his or her designated representative.

(4) An employee organization: the individual designated to receive service or to the president or if there is no president, an officer of the organization.

(5) An individual: to the named person or to their representative of record.



(e) Documents filed electronically with PERB will be deemed to have been served with the appropriate recipient, except: (1) all initial filings with PERB must be served by personal delivery, mail or through another delivery service properly addressed, and (2) electronic service shall not qualify as sufficient for service on an unrepresented individual party who has declined to use e-PERB as permitted by section 32110 of PERB's regulations.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code.

### **32143. Abeyances**

(a) Upon request, the Board may place any matter in abeyance for a period that does not exceed six months. The Board may extend the abeyance for additional periods of six or less months if all parties agree. No case, however, shall remain in abeyance for more than two years without approval by the Board itself.

(b) Nothing herein shall preclude the Board from placing a matter in abeyance on its own accord.

(c) This section shall not apply to matters pending before the Board itself that are subject to the 180-day adjudication rule under section 32305 of these regulations.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Sections 12, 12(a) and 1013, Code of Civil Procedure; and Section 99561(m), Public Utilities Code.

## **SUBCHAPTER 3. HEARINGS**

### **32166. Application to Join a Representation Hearing as a Full Party.**

(a) An employee organization shall be allowed to participate fully in a representation hearing provided it has filed a written application with the regional office not less than 10 days prior to the commencement of the hearing, accompanied by either 10 percent support of any unit in dispute at the hearing, or 10 percent support of a proposed unit which overlaps another unit in dispute at the hearing. Proof of support is defined in Chapter 1, Section 32700. A copy of the written application, excluding the proof of support, shall be served on the parties. Proof of service pursuant to Section 32140 is required.

(b) The Board agent may waive the deadline for filing an application pursuant to this Section for good cause.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(a), 3541.3(b), 3541.3(h), 3541.3(l), 3541.3(m), 3541.3(n), 3563(a), 3563(c),

3563(g), 3563(k), 3563(l), 71639.1 and 71825, Government Code; and Sections 99561(a), 99561(c), 99561(g), 99561(k) and 99561(l), Public Utilities Code.

**32212. Briefs and Oral Argument.**

Prior to the close of the hearing, the board agent shall rule on any request to make oral argument or to file a written brief. The Board agent shall set the time required for the filing of briefs. Any party filing a brief shall file the brief with the Board agent. Service and proof of service of the brief pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code.

**SUBCHAPTER 4. DECISIONS OF THE BOARD ITSELF**

**Article 3. Administrative Appeals**

**32360. Appeal Requirements.**

(a) An appeal may be filed with the Board itself from any administrative decision, except as noted in Section 32380.

(b) The appeal shall be filed with the Board itself in the headquarters office within 10 days following the date of service of the decision or letter of determination.

(c) The appeal must be in writing and must state the specific issue(s) of procedure, fact, law or rationale that is appealed and state the grounds for the appeal.

(d) Service and proof of service of the appeal pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505 and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code.

**32375. Response to Administrative Appeal.**

Within 10 days following the date of service of the appeal, any party may file a response to the appeal. The response shall be filed with the Board itself in the headquarters office. Service and proof of service of the response pursuant to Section 32140 are required.

Note: Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f),

100301, 101344, 102403, 103401, 120505 and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code

#### **Article 4. Reconsideration**

##### **32410. Request for Reconsideration.**

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. The request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case.

(b) Any party shall have 20 days from service to file a response to the request for reconsideration with the Board itself in the headquarters office. Service and proof of service of the response pursuant to Section 32140 are required.

(c) Unless otherwise ordered by the Board, the filing of a Request for Reconsideration shall not stay the effectiveness of a decision of the Board itself except that the Board's order in an unfair practice case shall automatically be stayed upon filing of a Request for Reconsideration.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, 125521, Appendix 1, Section 4.4 and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code.

## **Article 5. Request for Injunctive Relief**

### **32450. Request.**

(a) A request from a party that the Board seek injunctive relief shall be filed with the General Counsel at the headquarters office. Requests filed after PERB's regular business hours shall be deemed filed on the next regular business day. The request shall include:

- (1) The written request, accompanied by reasons stating why injunctive relief is appropriate;
- (2) A copy of the unfair practice charge or complaint on which the request is based; and
- (3) Declarations, on personal knowledge, setting forth in detail all pertinent facts underlying the request for injunctive relief.

(b) Service and proof of service on the respondent is required of all documents filed with the General Counsel. Under this section, service and proof of service shall be conducted pursuant to section 32140 except that service must be by personal delivery, facsimile transmission, or electronic mail.

(c) Notice that such a request is being made shall be provided no less than 24 hours prior to the filing to the General Counsel and the party against whom the relief is sought. Such notice may be by telephone or in person, or by any other means reasonably calculated to provide notice.

(d) An affidavit of notice shall be filed with the request. Such affidavit shall indicate to whom, at what time, and in what manner the notice required by subparagraph (c) above was accomplished.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3551(a), 3555.5(c), 3541.3(j), 3541.3(n), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code.

### **32455. Investigation.**

Upon filing of a request for the Board to seek injunctive relief, the General Counsel shall initiate an investigation. The General Counsel shall give notice reasonably calculated to inform the parties an investigation is proceeding. The respondent shall be apprised of the allegations against it, and may state its position in the course of the inquiries. The respondent's position statements or other documents filed with the General Counsel must be filed at the headquarters office, and service and proof of service on the opposite party. For purposes of this section, a Board agent shall establish and inform the parties of all filing deadlines, which shall include the date and time that a party must file a document. The Board agent may contact and question such persons as necessary to effectuate the investigation.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(j), 3551(a), 3555.5(c), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code.

**32500. Review of Representation Case.**

(a) Any party to a decision in a representation case by the Board itself, except for decisions rendered pursuant to Chapter 5, Chapter 7 or Chapter 8 of these Regulations, may file a request to seek judicial review within 20 days following the date of service of the decision. The request shall be filed with the Board itself in the headquarters office and shall include statements setting forth those factors upon which the party asserts that the case is one of special importance. Service and proof of service of the request pursuant to Section 32140 are required.

(b) Any party shall have 20 days following the date of service of the request to file a response. The response shall be filed with the Board itself in the headquarters office. Service and proof of service of the request pursuant to Section 32140 are required.

(c) The Board may join in a request for judicial review or may decline to join, at its discretion.

Note: Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3509.5, 3520, 3542, 3564, 71639.4 and 71825.1, Government Code; and Section 99562, Public Utilities Code.

**SUBCHAPTER 5. UNFAIR PRACTICE PROCEEDINGS**

**32635. Review of Dismissals.**

(a) Within 20 days of the date of service of a dismissal, the charging party may file an appeal of the dismissal with the Board itself. Service and proof of service of the appeal on the respondent pursuant to Section 32140 are required.

The Appeal shall:

(1) State the specific issues of procedure, fact, law or rationale to which the appeal is taken;

(2) Identify the page or part of the dismissal to which each appeal is taken;

(3) State the grounds for each issue stated.

(b) Unless good cause is shown, a charging party may not present on appeal new charge allegations or new supporting evidence.

(c) If the charging party files a timely appeal of the dismissal, any other party may file a statement in opposition to the appeal within 20 days following the date of service of the appeal. Service and proof of service of the statement pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government

Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code.

## **SUBCHAPTER 6: REPRESENTATION PROCEEDINGS**

### **Article 1: General Provisions**

#### **32700. Proof of Support.**

(a)(1) Proof of employee support for representation petitions, including petitions for certification, requests for recognition, severance requests or petitions, and those unit modification petitions for which proof of support is required, shall clearly demonstrate that the employee desires to be represented by the petitioning employee organization for the purpose of meeting and negotiating or meeting and conferring on wages, hours and other terms and conditions of employment.

(2) Proof of employee support for a decertification petition shall clearly demonstrate that the employee no longer desires to be represented by the exclusive representative.

(3) This section governs proof of employee support under all statutes that the Board enforces, except to the extent that an MMBA, Trial Court Act, or Court Interpreter Act employer has promulgated differing reasonable rules regarding proof of employee support. It also governs proof of support under section 8434 of the Education Code and related provisions. When applying this section with respect to providers as defined under section 8431 of the Education Code, the term “employee” used in this section shall include such providers.

(b) Proof of support shall indicate each employee’s name. An employee’s proof of support shall remain valid provided it is used to support a petition or request that is first submitted within one (1) year from the date the proof of support was obtained, except that proof of support pertaining to childcare providers, pursuant to Education Code Section 8434, shall remain valid provided it is used to support a petition or request that is first submitted within two (2) years from the date the proof of support was obtained. If the proof of support does not show the date on which it was obtained, the party claiming support shall have the burden of establishing by other means that the proof of support remained valid as of the time the relevant petition or request was first submitted. Any proof of support meeting the requirements of this section shall be considered valid even though the employee demonstrated support for more than one employee organization.

(c) For purposes of determining proof of support, a joint petitioner may meet the required percentage by combining the total of the proofs of support for each of the employee organizations which make up the joint petitioner.

(d) Subject to subsections (a), (b), and (c) of this section, proof of support may consist of any one of the following or a combination thereof:

(1) Original dues deduction authorization forms signed by employees, or proof of dues payments by the employees;

(2) Original membership applications signed by employees;

(3) Original authorization cards or original petitions signed by employees. The purpose of the petition shall be clearly stated on each page thereof;

(4) A list of employees who are not exclusively represented by an employee organization and who have signed or electronically signed proofs of support clearly demonstrating a desire to be represented by the petitioning employee organization for the purpose of meeting and negotiating or meeting and conferring on wages, hours and other terms and conditions of employment, or provided a pdf, screenshot, or image demonstrating their signatures on proofs of support clearly demonstrating such a desire. In order to validate such a list, the employee organization must submit to the Board a sample of such proofs of support, and must establish by sworn declaration that for each employee listed, the employee organization maintains for inspection by the Board, if the Board finds it necessary to request such inspection, one of the following:

(A) An original signed proof of support pursuant to subsection (d)(1), (d)(2), or (d)(3);

(B) Records showing that the employee organization obtained an electronic signature on a proof of support in compliance with the California Civil Code provisions collectively known as the Uniform Electronic Transactions Act, codified at Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the California Civil Code; or

(C) Records showing that an employee organization obtained a proof of support via a process that qualifies as an electronic signature by virtue of including each of the following elements: (i) The proof of support contains the employee's name and a cellular phone number, email address, or home address; (ii) the employee organization sent a confirmation transmission to the cellular phone number, email address, or home address provided, indicating the language to which the employee agreed, and such language clearly demonstrates the employee's desire to be represented by the petitioning employee organization for the purpose of meeting and negotiating or meeting and conferring on wages, hours and other terms and conditions of employment; and (iii) the employee organization has submitted to the Board any responses to such confirmation transmissions that the employee organization received by the time of submission.

(5) Other evidence as determined by the Board, provided that such evidence is consistent with the principles underlying this subsection (d).

(e) Documents submitted to the Board as proof of employee support, including all documents submitted to the Board under section (d)(4)(C), shall remain confidential and not be disclosed by the Board to any party other than the petitioner, and used only to indicate whether the proof of support is sufficient.

(f) Any party which contends that proof of employee support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the regional office evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition which the proof of support accompanied. The Board shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. When prima facie evidence is submitted to the

Board supporting a claim that proof of support was tainted by such misconduct, the Board shall conduct further investigations. If, as a result of such investigation, the Board determines that the showing of support is inadequate because of such misconduct, the petition shall be dismissed.

Authority cited: Sections 3513, 3513(h), 3541.3, 3541.3(g) and 3563(f), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3515.7(d), 3520.5, 3544, 3544.1, 3544.3, 3544.5, 3544.7, 3546, 3573, 3574, 3575, 3576, 3577 and 3585.5, Government Code; and Sections 99561(c), 99561(e), 99561(k), 99561(l), 99564, 99564.1, 99564.2, 99564.3, 99564.4 and 99566.1, Public Utilities Code, Sections 8431 and 8434, Education Code.

## **SUBCHAPTER 9: STATE MEDIATION AND CONCILIATION SERVICE**

### **Article 2. Elections**

#### **33002. Stay of Election**

(a) Any party to an SMCS-conducted election may request that the Board stay the election pending the resolution of an unfair practice charge relating to the voting unit upon an investigation and a finding that alleged unlawful conduct would so affect the election process as to prevent the employees from exercising free choice.

(b) A request for a stay of an election shall be filed with the appropriate regional office, in accordance with Sections 32075 and 32115. Service and proof of service pursuant to Section 32140 are required.

(c) Any determination to stay an election made by the Board pursuant to this section may be appealed to the Board itself in accordance with the provisions of Chapter 1, Subchapter 4, Article 3 of these regulations.

Note: Authority cited: Sections 3509(a), 3541.3(g), 3541.3(n), 3600, 3603(a), 71639.1(b) and 71825(b), Government Code. Reference: Sections 3502.5(b), 3502.5(d), 3507.1(c), 71632.5(c), 71636.3 and 71814(c), Government Code.

## **CHAPTER 5: MEYERS-MILIAS-BROWN ACT**

### **Article 1. General Provisions**

#### **61080. Conduct of Elections; Eligibility to Appear on the Ballot**

(a) If the Board determines that a Board-conducted election is necessary, the election shall be conducted in accordance with Article 2 of this Chapter.

(b) Any employee organization which filed a valid petition or which became a party to a representation case may appear on the election ballot, provided that the organization has evidenced to the satisfaction of the Board at least 30 percent support in the appropriate unit. If an election is directed by a PERB decision, each eligible employee organization shall have 15 workdays from the date of service of the decision in which to demonstrate at least 30 percent support in the unit found to be appropriate by the Board.



(c) The Board shall determine the sufficiency of the proof of support in accordance with the provisions of Chapter 1, Section 32700 of these Regulations.

Authority cited: Sections 3509(a) and (c) and 3541.3(g) and (n), Government Code. Reference: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code.

**61210. Petition for Certification.**

(a) An employee organization may file a petition for certification, by means of an election, to become the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit represented by an exclusive representative. The petition shall be filed with the appropriate regional office; be signed by an authorized agent of the employee organization; and include the following information:

(1) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A description of the proposed appropriate unit, including the classifications and positions to be included and those to be excluded;

(4) The approximate number of employees in the proposed appropriate unit;

(5) The name and address of any other employee organization, if any, known to have an interest in representing the employees covered by the unit.

(b) The petition shall be accompanied by proof of at least 30 percent support of the employees in the unit claimed to be appropriate. Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(c) Service of the petition, excluding the proof of support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3509(a) and 3541.3(g) and 3541.3(n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

**61215. Petition for Recognition**

(a) An employee organization may file a petition for recognition as the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit represented by an exclusive representative. The petition shall be filed with the appropriate regional office; be signed by an authorized agent of the employee organization; and include the following information:

(1) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

- (2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;
  - (3) A description of the proposed appropriate unit, including the classifications and positions to be included and those to be excluded;
  - (4) The approximate number of employees in the proposed appropriate unit;
  - (5) The name and address of any other employee organization, if any, known to have an interest in representing the employees covered by the unit.
- (b) The petition shall be accompanied by proof of at least majority support of the employees in the unit claimed to be appropriate. Proof of support is defined in Chapter 1, Section 32700 of these regulations.
- (c) Service of the petition, excluding the proof of support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3541.3(g) and 3541.3(n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

**61350. Petition**

- (a) A petition for an election to decertify an existing exclusive representative in an established unit may be filed by a group of employees within the unit or an employee organization. The petition shall be filed with the regional office and include the following information:
- (1) The name, address and telephone number of the petitioning employee organization, if any, and/or the name, address and telephone number of the agent to be contacted on behalf of a petitioning employee organization or group of employees;
  - (2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;
  - (3) A brief description and the title of the established unit;
  - (4) The name, address and telephone number of the exclusive representative of the established unit and the name, address and telephone number of the agent to be contacted;
  - (5) The approximate number of employees in the established unit;
  - (6) The date on which the exclusive representative was recognized or certified;
  - (7) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the unit.
- (b) The petition shall be accompanied by proof that at least 30 percent of the employees in the established unit either:

- (1) No longer desire to be represented by the incumbent exclusive representative; or
  - (2) Wish to be represented by another employee organization. Proof of support is defined in Chapter 1, Section 32700 of these regulations.
- (c) Service of the petition, excluding the proof of at least 30 percent support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3509(a) and 3541.3(g), Government Code. Reference: Sections 3507, 3507.1, 3509 and 3541.3(c) and (l), Government Code.

**61450. Petition**

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board certification of a unit modification may file a petition in accordance with the provisions of this section.

(a) An exclusive representative may file with the regional office a petition for modification of its unit(s):

- (1) To add to the unit unrepresented classifications or positions;
- (2) To divide the existing unit into two or more appropriate units;
- (3) To consolidate two or more of its established units into one appropriate unit.

(b) An exclusive representative, an employer, or both jointly may file with the regional office a petition for unit modification:

- (1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by MMBA or otherwise prohibited by statute or local rule from inclusion in the unit;
- (2) To make technical changes to clarify or update the unit description;
- (3) To resolve a dispute as to unit placement or designation of a new classification or position;
- (4) To delete classifications or positions not subject to (1) above which are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by MMBA or otherwise prohibited by statute or local rule from inclusion in the unit, provided that:

- (A) The petition is filed jointly by the employer and the exclusive representative, or
- (B) There is not in effect a lawful written agreement or memorandum of understanding, or
- (C) The petition is filed during the “window period” of a lawful memorandum of understanding as defined in these regulations in Section 61010.

(c) All affected exclusive representatives may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title(s) of the established unit(s);

(4) The approximate number of employees in the established unit;

(5) The approximate number of employees covered by the petition;

(6) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the established unit;

(7) A description of the modification(s) sought by the petition;

(8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;

(9) A statement of the reasons for the modification(s).

(e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.

(2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.

(3) Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of support, if required, shall be filed only with the regional office.

Authority cited: Sections 3509(a) and 3541.3(e) and (g), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code.

## **CHAPTER 7: TRIAL COURT EMPLOYMENT PROTECTION AND GOVERNANCE ACT**

### **Article 1. General Provisions**

#### **81080. Conduct of Elections; Eligibility to Appear on Ballot**

(a) If the Board determines that a Board-conducted election is necessary, the election shall be conducted in accordance with Article 2 of this Chapter.

(b) Any employee organization which filed a valid petition or which became a party to a representation case may appear on the election ballot, provided that the organization has evidenced to the satisfaction of the Board at least 30 percent support in the appropriate unit. If an election is directed by a PERB decision, each eligible employee organization shall have 15 workdays from the date of service of the decision in which to demonstrate at least 30 percent support in the unit found to be appropriate by the Board.

(c) The Board shall determine the sufficiency of the proof of support in accordance with the provisions of Chapter 1, Section 32700 of these Regulations.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71632.5, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

#### **81210. Petition for Certification**

(a) An employee organization may file a petition to become the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit represented by an exclusive representative. The petition shall be filed with the appropriate regional office; be signed by an authorized agent of the employee organization; and include the following information:

(1) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A description of the proposed appropriate unit, including the classifications and positions to be included and those to be excluded;

(4) The approximate number of employees in the proposed appropriate unit;

(5) The name and address of any other employee organization, if any, known to have an interest in representing the employees covered by the unit.

(b) The petition shall be accompanied by proof of at least 30 percent support of the employees in the unit claimed to be appropriate. Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(c) Service of the petition, excluding the proof of at least 30 percent support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

**81350. Petition**

(a) A petition for an election to decertify an existing exclusive representative in an established unit may be filed by a group of employees within the unit or an employee organization. The petition shall be filed with the regional office and include the following information:

(1) The name, address and telephone number of the petitioning employee organization, if any, and/or the name, address and telephone number of the agent to be contacted on behalf of a petitioning employee organization or group of employees;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title of the established unit;

(4) The name, address and telephone number of the exclusive representative of the established unit and the name, address and telephone number of the agent to be contacted;

(5) The approximate number of employees in the established unit;

(6) The date on which the exclusive representative was recognized or certified;

(7) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the unit.

(b) The petition shall be accompanied by proof that at least 30 percent of the employees in the established unit either:

(1) No longer desire to be represented by the incumbent exclusive representative; or

(2) Wish to be represented by another employee organization.

Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(c) Service of the petition, excluding the proof of at least 30 percent support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

**81450. Petition**

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board certification of a unit modification may file a petition in accordance with the provisions of this section.

(a) An exclusive representative may file with the regional office a petition for modification of its unit(s):

- (1) To add to the unit unrepresented classifications or positions;
- (2) To divide the existing unit into two or more appropriate units;
- (3) To consolidate two or more of its established units into one appropriate unit.

(b) An exclusive representative, an employer, or both jointly may file with the regional office a petition for unit modification:

(1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Trial Court Act or otherwise prohibited by statute or local rule from inclusion in the unit;

(2) To make technical changes to clarify or update the unit description;

(3) To resolve a dispute as to unit placement or designation of a new classification or position;

(4) To delete classifications or positions not subject to (1) above which are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Trial Court Act or otherwise prohibited by statute or local rule from inclusion in the unit, provided that:

(A) The petition is filed jointly by the employer and the exclusive representative, or

(B) There is not in effect a lawful written agreement or memorandum of understanding, or

(C) The petition is filed during the “window period” of a lawful memorandum of understanding as defined in these regulations in Section 81010.

(c) All affected exclusive representatives may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

- (3) A brief description and the title(s) of the established unit(s);
  - (4) The approximate number of employees in the established unit;
  - (5) The approximate number of employees covered by the petition;
  - (6) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the established unit;
  - (7) A description of the modification(s) sought by the petition;
  - (8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;
  - (9) A statement of the reasons for the modification(s).
- (e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.
- (2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.
- (3) Proof of support is defined in Chapter 1, Section 32700 of these regulations.
- (f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of support, if required, shall be filed only with the regional office.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

## **CHAPTER 8: TRIAL COURT INTERPRETER EMPLOYMENT AND LABOR RELATIONS ACT**

### **Article 1. General Provisions**

#### **91080. Conduct of Elections; Eligibility to Appear on Ballot**

- (a) If the Board determines that a Board-conducted election is necessary, the election shall be conducted in accordance with Article 2 of this Chapter.
- (b) Any employee organization which filed a valid petition or which became a party to a representation case may appear on the election ballot, provided that the organization has evidenced to the satisfaction of the Board at least 30 percent support in the appropriate unit. If an



election is directed by a PERB decision, each eligible employee organization shall have 15 workdays from the date of service of the decision in which to demonstrate at least 30 percent support in the unit found to be appropriate by the Board.

(c) The Board shall determine the sufficiency of the proof of support in accordance with the provisions of Chapter 1, Section 32700 of these Regulations.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71814, 71823 and 71825, Government Code.

### **91210. Petition for Certification**

(a) An employee organization may file a petition to become the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit represented by an exclusive representative. The petition shall be filed with the appropriate regional office; be signed by an authorized agent of the employee organization; and include the following information:

(1) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A description of the proposed appropriate unit, including the classifications and positions to be included and those to be excluded;

(4) The approximate number of employees in the proposed appropriate unit;

(5) The name and address of any other employee organization, if any, known to have an interest in representing the employees covered by the unit.

(b) The petition shall be accompanied by proof of at least 30 percent support of the employees in the unit claimed to be appropriate. Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(c) Service of the petition, excluding the proof of at least 30 percent support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71823 and 71825, Government Code.

### **91350. Petition**

(a) A petition for an election to decertify an existing exclusive representative in an established unit may be filed by a group of employees within the unit or an employee organization. The petition shall be filed with the regional office and include the following information:

(1) The name, address and telephone number of the petitioning employee organization, if any, and/or the name, address and telephone number of the agent to be contacted on behalf of a petitioning employee organization or group of employees;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title of the established unit;

(4) The name, address and telephone number of the exclusive representative of the established unit and the name, address and telephone number of the agent to be contacted;

(5) The approximate number of employees in the established unit;

(6) The date on which the exclusive representative was recognized or certified;

(7) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the unit.

(b) The petition shall be accompanied by proof that at least 30 percent of the employees in the established unit either:

(1) No longer desire to be represented by the incumbent exclusive representative; or

(2) Wish to be represented by another employee organization.

Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(c) Service of the petition, excluding the proof of at least 30 percent support, and proof of service pursuant to Section 32140 are required.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71823 and 71825, Government Code.

#### **91450. Petition**

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board certification of a unit modification may file a petition in accordance with the provisions of this section.

(a) An exclusive representative may file with the regional office a petition for modification of its unit(s):

(1) To add to the unit unrepresented classifications or positions;

(2) To divide the existing unit into two or more appropriate units;

(3) To consolidate two or more of its established units into one appropriate unit.

(b) An exclusive representative, an employer, or both jointly may file with the regional office a petition for unit modification:

(1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Court Interpreter Act or otherwise prohibited by statute or local rule from inclusion in the unit;

(2) To make technical changes to clarify or update the unit description;

(3) To resolve a dispute as to unit placement or designation of a new classification or position;

(4) To delete classifications or positions not subject to (1) above which are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Court Interpreter Act or otherwise prohibited by statute or local rule from inclusion in the unit, provided that:

(A) The petition is filed jointly by the employer and the exclusive representative, or

(B) There is not in effect a lawful written agreement or memorandum of understanding, or

(C) The petition is filed during the “window period” of a lawful memorandum of understanding as defined in these regulations in Section 91010.

(c) All affected exclusive representatives may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title(s) of the established unit(s);

(4) The approximate number of employees in the established unit;

(5) The approximate number of employees covered by the petition;

(6) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the established unit;

(7) A description of the modification(s) sought by the petition;

(8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;

(9) A statement of the reasons for the modification(s).

(e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.

(2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.

(3) Proof of support is defined in Chapter 1, Section 32700 of these regulations.

(f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of support, if required, shall be filed only with the regional office.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71823 and 71825, Government Code.

## **CHAPTER 9. PROCEDURES UNDER SPECIFIED TRANSIT DISTRICT ACTS AND LAWS**

### **93010. Form of Petition**

(a) Petitions shall be in writing and signed, and shall be sworn to before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. An original shall be filed.

(b) A petition shall contain the following:

(1) The name and address of the district, of responsible members, and of the establishments involved.

(2) The general nature of the district's business.

(3) A description of the bargaining unit which the petitioner claims to be appropriate.

(4) The names and addresses of any other labor organization which claims to represent any employees in the alleged or the certified appropriate unit, and brief descriptions of the contract or contracts, if any, covering the employees in such unit and the expiration date of such contract(s).

(5) The number of employees in the alleged appropriate unit.

(6) The name, affiliation (if any), and address of the petitioner (state if petitioner is the district).

(7) Any other relevant facts.

(c) In addition, a petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall also contain:

(1) A statement that the district declines to recognize the petitioner as the representative within the meaning of Section 9(a) of the Labor-Management Relations Act or that the labor organization is currently recognized but desires certification.

(2) Whether a strike or picketing is in progress at the establishment involved, and if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(d) In addition, a petition for certification, when filed by a district, shall also contain:

(1) A brief statement setting forth that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate; a description of such unit; and the number of employees in the unit (if different from (b)(3) or (b)(4)).

(2) The name or names, affiliation if any, and addresses of the individuals or labor organizations making such claim for recognition (if different from (b)(4)).

(3) A statement whether the petitioner has contracts with any labor organization or other representatives of employees and if so, their expiration date.

(4) Whether a strike or picketing is in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(e) In addition, a petition for decertification shall also contain:

(1) Name or names of the individuals or labor organizations who have been certified or are being currently recognized by the district and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees (if different from (b)(4)).

(2) An allegation that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in Section 9(a) of the Labor Management Relations Act.

(3) Whether a strike or picketing is in progress at the establishment involved, and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(f) In addition, a petition for clarification shall also contain:

(1) The name of the recognized or certified bargaining representative (if different from (b)(4)).

(2) If the bargaining unit is certified, an identification of the existing certification.

(3) A description of the proposed clarification.

(4) The number of employees in the unit as proposed under the clarification.

(5) The job classifications of employees as to whom the issue is raised, and the number of employees in each classification.

(6) A statement by petitioner setting forth reasons why petitioner desires clarification of unit.

(g) In addition, a petition for amendment of certification shall also contain:

(1) The name of the certified union involved.

(2) Identification and description of the existing certification.

(3) A statement by petitioner setting forth the details of the desired amendment and reasons therefor.

(h) Concurrently upon filing, a copy of said petition shall be served by the petitioner upon the district and upon any known labor organization purporting to act as representative of any employee directly affected by such petition, in accordance with Section 32140.

Note: Authority cited: Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60-102.72.

**93030. Conduct of Hearings**

(a) Hearings shall be conducted by a hearing officer appointed by the Supervisor and shall be open to the public unless otherwise ordered by the hearing officer. It shall be the duty of the hearing officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which SMCS, the Supervisor, the hearing officer, or the Board may discharge their duties under the Laws described in Section 93000. A hearing officer may be substituted by the Supervisor at any time.

(b) The hearing officer may, in his or her discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at a hearing or by other appropriate notice.

(c) All motions, including motions for intervention pursuant to Section 93035 below, shall be in writing, or if made at the hearing may be stated orally on the record, and shall briefly state the action or relief sought and the grounds for such motion. Motions shall be filed with the hearing officer, and a copy thereof shall immediately be served by the moving party upon each of the other parties to the proceeding. The hearing officer shall rule either orally on the record or in writing upon all motions, including all motions to dismiss a petition.

Note: Authority cited: Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

**93070. Election Procedures.**

(a) All elections shall be conducted by SMCS and shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, any participant, upon its prompt request to and approval thereof by the Supervisor, whose decision shall be final, may have its name removed from the ballot. Provided, however, that in a proceeding involving a district-filed petition or a petition for decertification, the labor organization certified, currently recognized or found to be seeking recognition may not have its name removed from the ballot without timely notice in writing to all parties and to SMCS disclaiming any representation interest among the employees in the unit.

Any party may be represented by observers of its own selection, subject to such limitations as SMCS may prescribe. Any party and any agent or representative of SMCS may challenge for good cause the eligibility of any person to vote in the election. Each challenged ballot shall be impounded. Upon the conclusion of the election SMCS shall issue a tally of the ballots to each party. Within five days thereafter any party may file with SMCS two copies of objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons for the objections. The objecting party shall immediately serve a copy of such objections upon each other party and file with SMCS proof of service and shall, upon request, promptly furnish evidence to support the objections.

(b) If (1) no objections are filed within the time specified in subsection (a) above, and (2) any challenged ballots are insufficient in number to affect the results of the election, and (3) no runoff election is to be held pursuant to Section 93075 below, SMCS shall forthwith issue to the parties a certification of the results of the election, including certification of representatives where appropriate; and the case will be closed.

(c) If objections are filed to the conduct of the election or conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the results of the election, the Supervisor shall investigate such objections or challenges, or both, and shall prepare and serve upon the parties a report on such objections or challenged ballots, or both. Within 10 days from the date of issuance of the report on such objections or challenged ballots, or within such additional period as the Supervisor may allow upon written application for extension made within such 10-day period, any party may file with the Supervisor an original of exceptions to such report. Concurrently upon the filing of such exceptions, the filing party shall serve a copy upon each of the other parties, and proof thereof shall be promptly filed with the Supervisor. If no exceptions are filed to such report within the time permitted, the Supervisor may issue a written decision in conformity with such report, as to the validity of such objections or challenges or may make other disposition of the case based on an administrative investigation or in the exercise of reasonable discretion, and SMCS shall thereupon promptly act to close the case in accordance with such decision.

(d) If exceptions are filed, either to the report on challenged ballots or objections, or both if it is a consolidated report, the Supervisor shall appoint a hearing officer to examine the exceptions and make recommendations. If it appears to the hearing officer that such exceptions do not raise substantial and material factual issues with respect to the conduct of the election or conduct affecting the results of the elections, the hearing officer may make written recommendations to the Supervisor forthwith, and shall concurrently serve copies of said recommendations upon the parties. Within 10 days from the date of issuance of the aforesaid recommendations, or within such additional period as the Supervisor may allow upon written application for extension made within the 10-day period, any party may file with the Board itself exceptions to the hearing officer's recommendations, in accordance with the provisions of Section 93065. Concurrently upon the filing of such exceptions, the filing party shall serve a copy upon each of the other parties and proof thereof shall be promptly filed with the Board.

(e) If it appears to the hearing officer that any exceptions filed to the report of the Supervisor on challenged ballots or objections raise substantial and material factual issues, the hearing officer shall cause to be served upon the parties a notice of hearing on said exceptions, which notice



shall be given at least 10 days in advance of the date specified for the hearing. The hearing shall be conducted by the hearing officer in accordance with the provisions of Sections 93030, 93040, 93045, and 93050 insofar as applicable. Upon the close of the hearing, the hearing officer shall prepare and deliver to the Supervisor a proposed decision resolving questions of credibility and containing findings of fact and recommendations as to the disposition of the challenges or objections, or both if it be a consolidated matter. Said decision, - together with (1) the notice of hearing, (2) motions, (3) rulings, (4) orders, (5) transcript of the hearing, (6) stipulations, (7) exceptions, (8) documentary evidence and briefs, (9) objections to the conduct of the election or conduct affecting the results of the election, (10) the report of Supervisor on such objections, (11) the report of Supervisor on challenged ballots, (12) exceptions to the report of the Supervisor on objections or to the report on challenged ballots, and (13) the record previously made, - shall constitute the record in the case. A copy of the hearing officer's proposed decision shall immediately be served upon each of the parties, where-upon any of the parties may file exceptions to said report within the same time limitations and requirements as to service, and proof thereof, as are provided for in the case of exceptions filed under subsection (d) of this section.

(f) After the period for the filing of exceptions under subsection (d) or (e) has expired the Board shall issue a written decision and serve copies upon the parties. If the hearing officer has issued recommendations under subsection (d), finding that the exceptions to the report of the Supervisor do not raise substantial and material factual issues, and exceptions to such recommendations have been filed, and after consideration of such exceptions the Board decides that the exceptions to the report of the Supervisor do raise substantial and material factual issues, the Board shall direct the hearing officer to issue a notice of hearing, whereupon the procedures for a hearing and the issuance of the hearing officer's report provided for in subsection (e) of this section (including the provision for filing exceptions to the hearing officer's report) shall be followed. The Board may adopt the recommendations of the hearing officer issued under subsection (d) or the proposed decision of the hearing officer issued under subsection (e) as its own. SMCS shall thereafter promptly proceed to take such action as may be called for by the decision of the Board, after which the case will be closed.

Authority cited: Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.