Labor and Employment Intelligence for the Public Sector

California Public Employee Relations 2003 Index

(Issues 158-163)

An annual index to CPER Journal

Institute of Industrial Relations
University of California Berkeley
2003 CPER INDEX

An index to the 2003 issues of

CALIFORNIA PUBLIC EMPLOYEE RELATIONS (CPER)
Issues 158-163

A service of the California Public Employee Relations Program

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HOW TO USE THE CPER ANNUAL INDEX

The 2003 issues of the CPER bimonthly periodical — No. 158 (February) through No. 163 (December) — are indexed in this edition of the annual CPER Index.

The Index is arranged in four parts to provide convenient access to information. The first part is a topical index, the second is a table of all court decisions reported in CPER periodicals, the third is a table of decisions of the Public Employment Relations Board, and the fourth is an index of arbitration awards abstracted in the periodical. Each part is described below.

Key to CPER References

References to material in CPER consist of issue and page number, appearing at the end of each entry. For example, page 22 in CPER No. 162 is printed as 162:22. References are only to the first page of an article.

Part I: General Index

This part is the basic topical index to CPER. Under each main topic appear: (1) cross references to related topics (or if it is not a main topic, reference to the main topic under which material on that subject is indexed); (2) feature articles by title, with authors noted; (3) annotations of “recent development” news stories; and (4) annotations of Public Employment Relations Board cases reported in these issues.

Cases in the General Index under each topic serve as a subject key to cases that appear in the separate tables of court cases (Part II) and PERB rulings (Part III). (Parts II and III provide complete case titles, official citations, and case annotations, but no subject indexing. See full explanation below.) The PERB cases under each topic include all final board decisions, whether they were reported in a news story or abstracted in the CPER log of PERB rulings.

To accommodate the specialized use of the Index for research of arbitration issues, arbitration awards are indexed separately in Part IV. In the General Index, they appear with the entry “arbitration log.” (See description of Part IV, below.)

Unions and associations are listed in the General Index under the topic Employee Organizations. Employers are under Employers, California Public. Most news stories are indexed by employer and employee organization, as well as by topic. All material regarding any one employer (news story, arbitration case, or court or PERB ruling) is indexed by name of the employer.

Major statutes appear as General Index topics (such as Dills Act). New legislation is indexed under the topic, Legislation, as well as under subject headings.
Part II: Table of Cases

This table includes all court cases reported in the 2004 issues of CPER. The official title of each case is followed by a brief statement of the court’s holding, the official court citations, and the citation to CPER analysis of the decision.

Part III: Table of PERB Orders and Decisions

This table contains two sections.

Section A is an annotated table of all final rulings of the Public Employment Relations Board, whether abstracted in the CPER log of PERB rulings or featured in a news story. The table is presented in subdivisions reflecting the four statutes under PERB’s jurisdiction: the Dills Act, the Educational Employment Relations Act (EERA), the Higher Education Employer-Employee Relations Act (HEERA), and the Meyers-Milias-Brown Act (MMBA). Each case title is followed by the PERB decision number, year, and reference to the case synopsis appearing in the log of PERB decisions in each issue of CPER.

Section B is a key to case titles by PERB decision number.

Decisions are indexed by topic and by employer in the General Index (Part I).

Part IV: Index of Arbitration

This part is a separate index of arbitration awards that were abstracted in the “Arbitration Log” in each periodical. Entries are arranged by the issue in dispute (based on the headnotes used in the Log). In addition, a list of neutrals’ names and CPER citations to their awards is provided. Awards also are indexed by name of employer in the General Index (Part I).
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(9th Cir. 2003) 321 F.3d 903, 160 CPER 32

Board of Retirement, Los Angeles County Employees Retirement Assn.
see Medina v. Board of Retirement, Los Angeles County Employees Retirement Assn.

Board of Trustees of the California State University
see Colores v. Board of Trustees of the California State University

Bollinger
see Grutter v. Bollinger

Braemar Country Club
see Colmenares v. Braemar Country Club

Brown v. City of Tucson
The court upheld the lower court's decision to dismiss a police detective's claim of retaliation in violation of the Americans With Disabilities Act, but the court reversed the dismissal of her claim of interference under the act; differing standards of proof should be applied to the two claims; while the burden-shifting analysis of the U.S. Supreme Court in McDonnell Douglas under Title VII is appropriate to determine liability in retaliation claims, it is inappropriate to use the same analysis when considering interference claims. In those situations, the courts must look to the Fair Housing Act for guidance.
(9th Cir. 2003) 336 F.3d 1181, 162 CPER 62

C

California Commission on Teacher Credentialing Committee on Credentials
see California Teachers Assn. v. California Commission on Teacher Credentialing Committee on Credentials

California Department of Veterans' Affairs
see Carter v. California Department of Veterans' Affairs

California Institute of Technology
see Holly D. v. California Institute of Technology

California Public Employees' Retirement System Board of Administration
see Westly v. California Public Employees' Retirement System Board of Administration

California State Employees Assn.
see Cummings v. Connell, Morganstern, and California State Employees Assn., Loc. 1000 Hard v. California State Employees Assn.
California Teachers Assn. v. California Commission on Teacher Credentialing Committee on Credentials
A credentialed teacher is not entitled to identifying information, other than names, of witnesses listed in an investigative report regarding allegations of misconduct.

California Youth Authority v. State Personnel Board (Henderson)
Gov. Code Sec. 11425.50 generally requires that a court reviewing SPB decisions give great weight to witness credibility determinations made by the administrative law judge. However, if the ALJ does not identify the observations of demeanor, manner, or attitude supporting his or her credibility determinations, those judgments are not entitled to deference.

Californians for Justice v. State Board of Education
Community groups filed suit claiming the state board of education has been lowering the standard for who is qualified to teach in the state’s public schools; according to the federal “No Child Left Behind Act,” only “highly qualified teachers” are to be hired in programs receiving federal Title I funds for low-income children and, by 2005-06, all children must receive instruction from “highly qualified” teachers in core academic courses.
158:32

Carter v. California Department of Veterans’ Affairs
An employer cannot be held liable under the Fair Employment and Housing Act for the conduct of a client or customer. (2003) 109 Cal.App.4th 469, 161 CPER 71 (review granted and remanded by Supreme Court 6-4-04)

Cherosky v. Henderson
The refusal to accommodate a federal employee pursuant to a continuing policy is a discrete act, and the complainant must consult with the Equal Employment Opportunity Commission within 45 days of the refusal or lose his discrimination claim under the Rehabilitation Act of 1973.
(9th Cir. 2003) 330 F.3d 1243, 161 CPER 69

City of Anaheim v. Nolan
The court clarified the standard to establish disability retirement, holding that an applicant for disability retirement must show that he or she is incapacitated from performing work in a similar position elsewhere in the state, not just in the applicant’s department.

City of Claremont
City of Claremont Police Officers Assn. v. City of Claremont

City of Coronado
see James v. City of Coronado

City of Los Angeles
see Jackson v. City of Los Angeles

City of San Diego
see Davis v. City of San Diego

City of San Diego Civil Service Commission
see San Diego Police Officers Assn. v. City of San Diego Civil Service Commission

City of Tuscon
see Brown v. City of Tuscon

City of Upland
see Upland Police Officers Assn. v. City of Upland

Claremont Police Officers Assn. v. City of Claremont
City was obligated to meet and confer with Claremont Police Officers Association before it enacted a vehicle stop policy that required police officers to record information concerning the race and ethnicity of persons they detained; under provisions of Meyers-Milias-Brown Act, the policy significantly affected officers’ working conditions and was not a fundamental policy decision that the city could unilaterally impose.
(2003) 112 Cal.App.3d 639, 163 CPER 36 (petition for review granted by Supreme Court 1-14-04)

Colmenares v. Braemar Country Club
The court unanimously held that the definition of disability under California’s Fair Employment and Housing Act is broader than that of the federal Americans With Disabilities Act.
(2003) 29 Cal.4th 1019, 159 CPER 52

Colores v. Board of Trustees of the California State University
Employee’s decision to take disability retirement for health conditions exacerbated by her superiors’ conduct did not foreclose a finding that the university had constructively discharged her. The six-month period for filing a tort claim began when she commenced her disability retirement, not when she filed her application.
Connell, Morgenstern, and California State Employees Assn., Loc. 1000
see Cummings v. Connell, Morgenstern, and California State Employees Assn., Loc. 1000

Cook
see Degrasse v. Cook

Costa
see Desert Palace, Inc., dba Caesars Palace Hotel and Casino v. Costa

County of Riverside
see Public Defenders Organization v. County of Riverside
Riverside Sheriff’s Assn. v. County of Riverside

County of Riverside v. Superior Court of Riverside County; Riverside Sheriffs Assn. RPI
Unanimous ruling struck down the labor-backed binding arbitration law that gave police and fire unions the option of calling on an arbitrator to resolve bargaining impasses over economic issues with local public safety employers.
(2003) 30 Cal.4th 278, 160 CPER 19

Cumming v. Connell, Morgenstern, and California State Employees Assn., Loc. 1000
Agency fee notice clarified; notice is sufficient even though it does not contain any audit of the union’s allocation of expenses between chargeable and non-chargeable expenditures.
(9th Cir. 2003) 316 F.3d 886, 158 CPER 56

D

Davis
see White v. Davis

Davis v. City of San Diego
A narrative report by the city’s Citizens’ Review Board on Police Practices summarizing the board’s investigation into a shooting was a confidential personnel record, and the city could not voluntarily disclose it to the public.

Degrasse v. Cook
City council member could not recover damages for the city’s violation of her free speech rights under the California Constitution.
(2002) 29 Cal.4th 333, 158 CPER 64

Department of Corrections
see Hastings v. Department of Corrections
Mackey v. Department of Corrections

Department of Personnel Administration
see State Personnel Board v. Department of Personnel Administration

Desert Palace, Inc., dba Caesars Palace Hotel and Casino v. Costa
A worker alleging discrimination by his employer does not have to present direct evidence in order to prove his case; a plaintiff is not required to present direct evidence of discrimination in order to obtain a mixed-motive instruction under Title VII of the Civil Rights Act of 1964.
(2003) 539 U.S. 90, 161 CPER 67

Dixon v. Regents of the University of California
The doctrine mandating that a plaintiff exhaust administrative remedies before filing a legal action in court is not boundless; it would have been “idle, futile, and practically useless” for the discharged employee to continue to press his appeal through an internal grievance process that had proceeded in fits and starts for more than two years.
(2003) 112 Cal.App.4th 1062, 163 CPER 70 (ordered depublished by Supreme Court 2-4-04)

E

Eastern Municipal Water Dist. Board
see McDaneld v. Eastern Municipal Water Dist. Board

F

Fairbanks North Star Borough School Dist.
see Raad v. Fairbanks North Star Borough School Dist.

Fenn v. Workers Compensation Appeals Board and City of Anaheim
Fireman not entitled to overtime compensation for hours he would have worked had he not been on disability leave. Premium pay awarded under Fair Labor Standards Act is not part of salary but a benefit earned by an employee who actually works excess hours during a pay period.
Flores v. Morgan Hill Unified School Dist. et al.
School administrators must take “more than the minimal amount of action” in response to complaints of student harassment on the basis of sexual orientation; if they treat such complaints with “deliberate indifference,” they can be held personally responsible for the students’ injuries.
(9th Cir. 2003) 324 F.3d 1130, 160 CPER 27

Gradilla v. Ruskin Manufacturing
Court narrowly interpreted California Family Rights Act to deny leave to employee who traveled with his ailing wife to Mexico to attend her father’s funeral; CFRA does not require employer to permit employee to travel with spouse for reasons unrelated to her medical treatment.
(9th Cir. 2003) 320 F.3d 951, 159 CPER 46

Grutter v. Bollinger
Upholds the affirmative action program at the University of Michigan law school; the law school had a compelling interest in attaining a diverse student body. The school’s policy did not assure a specified percentage of a particular group merely because of its race or ethnic origin; instead the “critical mass” sought to achieve specific educational benefits that ranged from livelier classroom discussion to better preparation for an increasingly diverse workforce.
(2003) 123 S.Ct. 2325, 162 CPER 5

Hard v. C. California State Employees Assn.
CSEA must issue its Civil Service Division an independent charter; association’s interpretation of bylaws is unreasonable.

Hark v. California Teachers Assn.
First decision withdrawn and second opinion provides more specific guidance to small local unions regarding the type of verification that they are required to give non-union members about their expenditures in order to justify their agency fee.
(9th Cir. 2003) 326 F.3d 1042, 160 CPER 34

Hastings v. Department of Corrections
A correctional officer cadet injured during training was not entitled to reassignment to a desk job for which he had not taken a competitive examination; the reasonable accommodation requirement of the California Fair Employment and Housing Act applies only to a position within the same civil service classification for which a disabled employee is a candidate.
(2003) 110 Cal. App.4th 963, 162 CPER 49

Henderson
see C. herosky v. Henderson

Hernandez v. Spacelabs Medical Inc.
Employee terminated after reporting sexual harassment may sue; court applied McDonnell Douglas analysis to find that employee engaged in protected activity and suffered an adverse employment action, but that alleged acts of discrimination occurred beyond the statute of limitations period.
(9th Cir. 2003) 343 F.3d 1107, 162 CPER 64

Hibbs
see Nevada Department of Human Resources v. Hibbs

Holly D. v. C. California Institute of Technology
“A plaintiff who contends that she was coerced into performing unwanted sexual acts with her supervisor, by threats that she would be discharged if she failed to comply with his demands, has alleged a tangible employment action under Title VII that, if proved, entitles her to relief against her employer”; the case expands the potential liability of employers for sexual harassment claims under Title VII of the Civil Rights Act to include cases in which no adverse job action was taken against the employee.
(9th Cir. 2003) 339 F.3d 1158, 162 CPER 58

Jackson v. City of Los Angeles
The statute of limitations period for issuing an administrative complaint against a peace officer as set out in the Public Safety Officers Procedural Bill of Rights Act prevails over the limitations period established by the Los Angeles City Charter because the rights and protections afforded peace officers by the act address matters of statewide concern. Since the officer’s termination was initiated more than one year after a sergeant learned of the alleged misconduct, the punitive action was based on an untimely complaint and barred by state law.
(2003) 111 Cal.App.4th 899, 162 CPER 33

James v. City of Coronado
Police officers are not entitled to confront and cross-examine witnesses during an administrative appeal convened to challenge misconduct claims outlined in memos placed in their personnel files; every appeal mandated by the Public Safety
Officers Procedural Bill of Rights Act does not, as a matter of law, include full panoply of judicial procedures.

Johnson (Individually and as Chief Probation Officer)
see Operating Engineers Loc. 3 v. Johnson (Individually and as Chief Probation Officer)

K

Katzberg v. Regents of the University of California
An individual may not bring an action for damages under the California Constitution for deprivation of his due process “liberty interest.”
(2002) 29 Cal.4th 300, 158 CPER 64

Kavanaugh v. West Sonoma County Union High School Dist.
Interpreting Ed. Code Sec. 44916, the court held that a certificated teacher who did not receive written notice of her status as a temporary employee until two weeks after beginning work must be considered a probationary employee.
(2003) 29 Cal.4th 911, 159 CPER 31

Kinder
see Loshonkohl v. Kinder

L

Liu v. Amway Corp.
The employer's conduct in discouraging the extension of pregnancy leave and in mischaracterizing the nature of the leave is actionable under the federal Family and Medical Leave Act and the California Family Rights Act.
(2003) 347 F.3d 1125, 163 CPER 66

Lockyer
see Opinion by A.G. Bill Lockyer

Lopez
see Bernstein v. Lopez

Los Angeles County Metropolitan Transportation Authority
see Amalgamated Transit Union, Loc. 1277, v. Los Angeles County Metropolitan Transportation Authority

Loshonkohl v. Kinder
Civil Code Sec. 47.5, which allows peace officers to file defamation suits against citizens who complain about police misconduct, does not abridge constitutional free speech protections because the law targets only complaints triggered by spite, hatred, or ill will; statute falls within category of permissible content discrimination because it suppresses only knowingly false complaints against police officers.

M

Mackey v. Department of Corrections
Retaliation for threatened or actual reporting of sexual relationships is not activity prohibited by California’s Fair Employment and Housing Act; being forced to work in an atmosphere where paramours were given preferential treatment and those who protested were abused does not violate the act.

Mason v. Retirement Board of the City and County of San Francisco
The San Francisco Retirement Board correctly determined that cash payments for unused vacation or sick leave are terminal pay and not to be included in retirement calculation; vacation and sick leave have no cash value while an employee is providing service under the retirement plan, therefore these benefits are not part of compensation earned during the specified measuring period.

McDaneld v. Eastern Municipal Water Dist. Board
An employee properly may be discharged by an employer who holds a reasonable, good faith belief that the employee has misused his family leave.

Medina v. Board of Retirement, Los Angeles County Employees Retirement Assn.
The retirement board of the county employees retirement association lacks the authority to classify two deputy district attorneys as safety members even though they erroneously had been classified as safety members and had made contributions at the higher safety member rate for over a decade.

Morgan Hill Unified School Dist.
see Flores v. Morgan Hill Unified School Dist.
Morgenstern
see Cummings v. Connell, Morgenstern, and California State Employees Assn., Loc. 1000

Nevada Department of Human Resources v. Hibbs
Under FMLA, state immunity is no bar to lawsuits by state employees; state employees may continue to sue for money damages when their state employer fails to comply with the leave provisions of the Family and Medical Leave Act of 1993.

Nolan
see City of Anaheim v. Nolan

Operating Engineers Loc. 3 v. Johnson (Individually and as Chief Probation Officer)
Additional exception added to exclusivity provision of the Workers’ Compensation Act; employee may claim invasion of constitutional right to privacy and seek damages separate from those awarded under the workers’ compensation system.

Opinion by A.G. Bill Lockyer
Because the term “firefighter” is expansively defined by the Workers’ Compensation Act to encompass a person providing firefighting services as an apprentice or volunteer, a firefighter is entitled to the enhanced benefits granted by law.
Ops.Cal.Arty.Gen., No. 03-301 (6-20-03) 2003 DJDAR 6917, 161 CPER 39

Palmer v. Regents of the University of California
A U.C. employee must use internal complaint procedures prior to filing a claim that the university retaliated against her for reporting unlawful activity.

People v. Stanistreet
Knowingly false accusations of police misconduct are not protected speech; upholds Penal Code Sec. 148.6, which makes it a misdemeanor to file a knowingly false complaint of police misconduct.
(2002) 29 Cal.4th 497, 158 CPERS 52

Public Defenders Organization v. County of Riverside
A union that represents employees in a professional bargaining unit retains its status as the exclusive representative of employees who are carved out of the original unit and placed in a new unit.

Raad v. Fairbanks North Star Borough School Dist.
An American citizen of Lebanese descent and Muslim faith who was refused a permanent teaching position may proceed to trial with her claim of discrimination on the basis of her national origin and religion and claim of retaliation.
(9th Cir. 2003) 323 F.3d 1185, 160 CPER 58

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Retirement Board of the City and County of San Francisco
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Riverside Sheriffs Assn.
see County of Riverside v. Superior Court of Riverside County; Riverside Sheriffs Assn. RPI

Riverside Sheriffs Assn. v. County of Riverside
No requirement that the county automatically grant a step increase to a deputy sheriff on disability leave; county did not deviate from clearly established past practice of granting step increases nor did it neglect obligation under MMBA to meet and confer with deputy’s exclusive representative.

Ruskin Manufacturing
see Gradilla v. Ruskin Manufacturing
San Diego Police Officers Assn. v. City of San Diego Civil Service Commission

A public entity may not release the personnel records of a law enforcement officer at a public disciplinary appeal hearing because an officer’s personnel records are confidential and cannot be made public if the officer objects.

(2002, modified 1-9-03) 104 Cal.App.4th 275, 158 CPER 46

Spacelabs Medical Inc.

see Hernandez v. Spacelabs Medical Inc.

Stanistreet

see People v. Stanistreet

State Personnel Board (Henderson)

see California Youth Authority v. State Personnel Board (Henderson)

State Personnel Board v. Department of Personnel Administration

Contract provisions that permit employees to bypass the State Personnel Board and have disciplinary matters adjudicated by an arbitrator deprive the SPB of its constitutional authority to review disciplinary actions; ensuring the fairness of employee discipline goes hand in hand with the board’s central function of administering the state civil service in accordance with the merit principle.


State Personnel Board v. Department of Personnel Administration

Collective bargaining agreements that allow for arbitration of disciplinary cases conflict with the constitutional jurisdiction of the SPB; the SPB’s power to “review disciplinary actions” refers to adjudicatory review of state employer actions and not appellate review of decisions in another forum.

(2003) 111 Cal. App.4th 839, 162 CPER 51 (review granted 11-12-03)

Steven F. v. Anaheim Union High School Dist.

The school district is not liable for the emotional distress of parents of a high school student who had an affair with her teacher. The district cannot be held vicariously liable for the actions of its teacher, although it can be held liable for its own conduct, such as negligence in the hiring of the teacher and/or continuing to employ him.

(2003) 112 Cal.App.4th 904, 163 CPER 43

Superior Court of Riverside County

see County of Riverside v. Superior Court of Riverside County; Riverside Sheriffs Assn. RPI

Teamsters, Loc. 856 v. Priceless, LLC

Court upheld propriety of trial court decision ordering cities to release names, titles, and wages of all city employees but without divulging individuals’ names; however, ruling did not decide merits of the case. Determination will come after a trial, when all evidence and arguments are presented.

(2003) 112 Cal.App.4th 1500, 163 CPER 34

Upland Police Officers Assn. v. City of Upland

The Public Safety Officers Procedural Bill of Rights Act mandates that a peace officer under investigation has the right to a representative of his or her choice, but the legislature did not intend to allow officers to dictate, by their choice of representative, whether an investigation will occur at all.


West Sonoma County Union High School Dist.

see Kavanaugh v. West Sonoma County Union High School Dist.

Westly v. California Public Employees’ Retirement System Board of Administration

State agencies cannot evade civil service provisions and the Department of Personnel Administration’s control over salaries, even if the desire is to pay employees higher in accordance with market rates.


White v. Davis

After the state legislature misses its constitutional budget deadline, the controller may pay only minimum wage and overtime pay after July 1, unless the legislature enacts an appropriation for salaries.

(2003) 30 Cal.4th 528, 160 CPER 14

Workers’ Compensation Appeals Board and City of Anaheim

see Fenn v. Workers’ Compensation Appeals Board and City of Anaheim
# PART III

## TABLE OF PERB ORDERS AND DECISIONS

### Section A: Annotated Table of PERB Orders and Decisions

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#### EERA Cases

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(The federation demonstrated a sufficient nexus between protected union activity and the district’s adverse action.)

Burlingame Elementary School Dist. v. California School Employees Assn., No. 1510/159:72
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California School Employees Assn. v. San Marcos USD, No. 1508/158:83
(Non-disruptive, informational picketing is protected by EERA.)

California School Employees Assn., Chap. 147 v. Banning Unified School Dist., No. 1549/163:85
(The board found good cause to excuse CSEA’s late-filed amended charge.)

California School Employees Assn., Chap. 244 v. Colton Joint Unified School Dist., No. 1534/162:83
(The charging party did not state a prima facie case demonstrating that the district violated EERA by retaliating against bus drivers, failing to participate in good faith in impasse procedures, bargaining in bad faith, or denying CSEA’s rights guaranteed by the act.)

California School Employees Assn., Chap. 250 v. Clovis Unified School Dist., No. 1504/158:81
(The district violated EERA when, without notifying the association, it conducted an employee election in order to implement changes in the employees’ retirement benefits.)

Compton Education Assn. v. Compton Unified School Dist., No. 1518/161:88
(The board adopted the ALJ’s proposed decision finding that the district violated EERA Secs. 3543.5[a] and [b].)

Davidson v. Public Employees Union, Loc. 1, N.o. 1537/162:87
(The charge was dismissed because it was untimely and failed to state a prima facie case. No new allegations or evidence was allowed on appeal.)

Degrace v. Los Rios College Federation of Teachers, Loc. 2279, N.o. 1515/160:76
(The federation did not breach its duty of fair representation.)

Delauer v. Santa Rosa Junior College, No. 1511/160:73
(The charging party, who was an employee of the district, was not protected under EERA in her capacity as a student at the junior college.)

Delauer v. Sonoma Valley Unified School Dist., No. 1522/161:91
(The board refused to consider Delauer’s additional EERA allegations on appeal and affirmed the regional attorney’s dismissal.)

Delauer v. California School Employees Assn., No. 1523/161:92
(The association did not violate its duty of fair representation.)

District Educators Assn., CTA/NEA v. Huntington Beach Union High School Dist., No. 1525/161:91
(Ufair practice ruling: The district violated EERA by unilaterally modifying the hours of three new positions in an existing classification. The hours of employment assigned to a position is a matter within the scope of representation regardless of whether the position is occupied or vacant.)

Fanene v. Oakland Unified School Dist., No. 1512/160:73
(The charging party did not show that her union activities motivated the district’s decision to terminate her.)

Fanene v. SEIU, Loc. 790, N.o.1513/160:75
(The union did not breach its duty of fair representation.)

(The board excused the Steelworkers’ defective proof of service and thereby accepted the union’s response to the district’s exceptions.)

Kestin v. United Teachers of Los Angeles, No. Ad-325/161:93
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(The board agent did not err in refusing to disqualify herself.)

Mendocino County Office of Education and Mendocino County Federation of School Employees, N.o. 1505/158:93
(The administrative and program secretaries should remain in the classified bargaining unit.)

Oakland Education Assn. v. Oakland Unified School Dist., No. 1529/162:80
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Part-Time Faculty United, AFT v. Santa Clarita C C D, N.o. 1506/158:85
(Public school employers cannot encourage employees to join one employee organization in preference to another.)
Part-Time Faculty United, AFT v. Victor Valley Community College District, No. 1543/162:86
(The district violated EERA by agreeing to amend its contract to allow the association to accrete unrepresented part-time faculty members into an existing unit when the district was aware that PFU had begun its organizing campaign.)

Pitner v. Contra Costa Community College District, No. 1520/161:89
(The board reversed the board agent’s dismissal of the unfair practice charge.)

(An appropriate unit of certificated employees exists and an election must be conducted.)

Rossmann v. Orange Unified Education Assn. and California Teachers Assn., N o. 1533/162:86
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United Administrators of Oakland Schools v. Oakland Unified School Dist., N o. 1544/162:85
(The district had no obligation to negotiate with the charging party because the alleged change concerning the faculty councils merely stated a practice already in existence.)

United Teachers of Los Angeles v. Los Angeles Unified School Dist., N o. 1532/162:82
(The charging party met its burden of establishing a prima facie case of retaliation against him for engaging in protected union activities.)

Ventura County Federation of College Teachers, L o c. 1828, AFL-CIO v. Ventura County Community College District, N o. 1547/163:81
(The district committed an unfair practice when it unilaterally acted to transfer instructional duties performed by its employees to law enforcement academy instructors who were jointly employed by the sheriff.)

Willits Teachers Assn., C T A/N E A v. Willits Unified School Dist., N o. 1521/161:90
(The board affirmed the regional attorney’s holding that the arbitrator’s decision is not repugnant to EERA.)

HEERA Cases

Academic Professionals of California v. Trustees of the California State University, N o. 1507-H/158:85
(The university’s implementation of a shift in computer, telephone, and fax policies was a unilateral change.)

Buxton v. Coalition of University Employees, N o. 1517-H/161:94
(The coalition did not breach its duty of fair representation.)

Enter v. Regents of the University of California (Los Alamos National Laboratory), N o. 1519-H/161:94
(The R.D.’s dismissal of the charging party’s unfair practice claim is affirmed.)

State Employees Trades Council v. Trustees of the California State University, N o. 1514-H/160:77
(The parties’ requests to withdraw the unfair practice charge and exceptions and to dismiss the action with prejudice were granted.)

MMBA Cases

California Nurses Assn. v. Antelope Valley Health Care District, N o. 1509-M/159:72
(The district’s exceptions were withdrawn with prejudice.)

City of Carson v. American Federation of State, County and Municipal Employees, L o c. 809, AFL-CIO, N o. Ad-323-M/161:97
(The board granted the city’s request for a stay of the B.A.’s order.)

City of Carson v. American Federation of State, County and Municipal Employees, L o c. 809, AFL-CIO, N o. Ad-327-M/162:88
(The board exercised jurisdiction to review the city’s interpretation of its local rule concerning unit modification petitions and ruled that the petition seeking to remove a classification represented by AFSCME was barred by the MOU between AFSCME and the city.)

(A three-year statute of limitations applies to charges filed under the MMBA. The board has jurisdiction to hear cases based on conduct that predates July 1, 2001. (See Local Government section of this issue for complete summary.)
Irish v. City of Sacramento, No. 1541-M/162:89
(The charging party’s untimely filing was excused because it resulted from a postal error and the board agent did not provide notice of what PERB considers to be a successfully “filed” document.)

Irish v. IUOE Loc. 39, No. 1542-M/162:90
(The charging party’s untimely filing was excused because it resulted from a postal error and the board agent did not provide notice of what PERB considers to be a successfully “filed” document.)

Siroky v. City of Folsom, No. 1531-M/162:87
(The charge was dismissed because it was not timely filed and the charging party did not have standing to allege a failure to bargain.)

Siroky v. City of Folsom, No. 1539-M/162:88
(The charging party failed to state a prima facie case showing that the city retaliated against him.)

(The union waived its right to meet and confer over new work rules because it refused to accept the district’s invitations to discuss the matter until the district recognized the union as an employee organization.)

Tupou v. Sacramento Municipal Utility Dist., No. 1535-M/162:88
(The charge was dismissed because it was untimely.)

Tupou v. International Brotherhood of Electrical Workers, Loc. 1245, No. 1536-M/162:90
(The charge was dismissed because it was untimely.)

Union of American Physicians and Dentists v. County of San Joaquin (Health Care Services), No. 1524-M/161:96
(An employee was improperly disciplined, the plan of corrective action imposed on him was rescinded, and the county was ordered to reimburse him for attorneys’ fees.)
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