

2005 CPER INDEX

An index to the 2005 issues of
CALIFORNIA PUBLIC EMPLOYEE RELATIONS (CPER)
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A service of the California Public Employee Relations Program

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HOW TO USE THE CPER ANNUAL INDEX

The 2005 issues of the *CPER* bimonthly periodical — No. 170 (February) through No. 175 (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. 170 is printed as **170:22**. 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 2005 issues of *CPER*. The official title of each case is followed by a brief statement of the court's holding, the official court citation, 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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PART II

TABLE OF CASES

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Petition to compel arbitration denied where procedure set out in the MOU did not provide for final and binding arbitration because it permits judicial review of a hearing officer's decision under Code of Civil Procedure Sec. 1094.5.

(1-31-05) 126 Cal.App.4th 247, 171 CPER 80

B

Biggs Unified School Dist.*see* **Reis v. Biggs Unified School Dist.****Birmingham Board of Education***see* **Jackson v. Birmingham Board of Education****Board of Trustees of the California State University v. Superior Court, San Diego County; Copley Press, RPI**

Correspondence between attorneys for the California State University and counsel for two CSU employees was held exempt from disclosure under the pending litigation exception of the California Public Records Act. Deposition transcripts are available to the public under Sec. 2025.570 of the Code of Civil Procedure.

(9-14-05) 132 Cal.App.4th 889, 174 CPER 58

Board of Trustees of the South Orange Community College Dist.*see* **Irvine Valley College Academic Senate v. Board of Trustees of the South Orange Community College Dist.****Brown v. Dept. of Corrections**

A state agency that calls the police and requests a restraining order against a threatening employee is protected from whistleblower claims by the privilege for statements made in official proceedings set out in Civil Code Sec. 47(b).

(8-31-05) 132 Cal.App.4th 520, 174 CPER 50

Bryan et al. v. UPS, Inc.*see* **Equal Employment Opportunity Commission v. United Parcel Service, Inc.; Bryan v. UPS, Inc.**

C

California Commission on Peace Officer Standards and Training v. Superior Court; The Los Angeles Times Communications, RPI

Recognizing the tension between privacy rights and openness contemplated by the California Public Records Act, the right to privacy does not prevent the release of public employees' salary data. The city was ordered to divulge the names and gross salaries of all city employees who earned more than \$100,000 in fiscal year 2003-04. The court concluded that "well-established norms of California public policy and American public employment exclude public employee names and salaries from the zone of financial privacy protection."

(4-7-05) 27 Cal.Rptr.3d 108, 172 CPER 52 (Supreme Court review granted; case depublished (7-27-05) Supreme Ct. S134072)

California Public Employment Relations Board

see **Coachella Valley Mosquito and Vector Control Dist. v. California Public Employment Relations Board; California School Employees Assn., RPI**

California School Employees Assn.

see **Coachella Valley Mosquito and Vector Control Dist. v. California Public Employment Relations Board; California School Employees Assn., RPI**

California School Employees Assn. v. Governing Board of the South Orange County Community College Dist.

Under Education Code Sec. 88003, substitute employees of community colleges qualify for classified status if they work more than 75 percent of the academic year while temporarily replacing absent classified employees.

(11-30-04) 124 Cal.App.4th 574, 170 CPER 41

California State Employees Assn., Loc. 1000, SEIU

see **California State Personnel Board v. California State Employees Assn., Loc. 1000, SEIU**

California State Personnel Board v. California State Employees Assn., Loc. 1000, SEIU

Contract terms that require the state employer to make promotions and appointments in the California civil service solely on the basis of seniority violate the merit principle of the state Constitution. Even though the MOU applied the seniority criterion to select from among candidates scoring in the top three ranks after a competitive examination, the legislature's approval of the contract was invalid because the program did not allow for "comparative merit evaluations" among the ranked candidates. The court's frequent reference to the post-and-bid programs' use of seniority as the "sole" criterion indicates that the decision does not rule out some use of seniority as a factor in permanent appointment and promotion decisions. In addition, the decision does not affect seniority preferences that are applied to transfer opportunities which do not involve a civil service examination.

(7-28-05) 36 Cal.4th 758, 174 CPER 42

Campbell v. Regents of the University of California

An employee who files whistleblower claims against the University of California under the state False Claims Act and the Labor Code must have exhausted specific internal whistleblower complaint procedures before

filing suit. Filing a complaint using general grievance procedures was not sufficient to meet the exhaustion requirement. The internal policy and procedures are within the regents' jurisdiction and provide adequate remedies. Neither of the anti-retaliation statutes under which Campbell sued abrogated the rule of exhaustion of administrative remedies.

(3-7-05) 35 Cal.4th 311, 170 CPER 13, 171 CPER 57

City and County of San Francisco

see **San Francisco Fire Fighters, Loc. 798 v. City and County of San Francisco**

City of Jackson

see **Smith v. City of Jackson**

City of Long Beach v. Workers' Compensation Appeals Board

In order to rebut the statutory presumption that a police officer who contracts cancer while on the job is entitled to workers' compensation benefits, an employer must prove there is no link between exposure to the known carcinogen and the type of cancer that develops. The mere showing that no studies exist which reveal a positive link between exposure and the particular cancer does not rebut the presumption. Under Labor Code Sec. 3212.1, once an employee demonstrates he has been exposed to a known carcinogen while on duty, the presumption that his cancer was caused in the course and scope of employment is conclusive unless the employer can muster evidence to show the specific disease is not reasonably linked to the cancer-causing agent.

(1-31-05) 126 Cal.App.4th 298, 171 CPER 40

City of Ontario

see **Florio v. City of Ontario**

City of San Diego v. Roe

San Diego police officer fired for selling a video of himself masturbating in uniform was not engaged in a matter of public concern and thus not entitled to First Amendment protection. The government employer may impose certain restraints on the speech of its employees that would be unconstitutional if applied to the general public.

(12-6-04) 543 S.Ct. 521, 170 CPER 48

Coachella Valley Mosquito and Vector Control Dist. v. California Public Employment Relations Board; California School Employees Assn., RPI

Consistent with the six other public employment relations laws enforced by PERB, the statute of limitations period applicable to unfair practice charges brought under the Meyers-Milias-Brown Act is six months, not three years.

(6-9-05) 35 Cal.4th 1072, 172 CPER 46, 173 CPER 18

Compton Community College Dist.

see **Hood v. Compton Community College Dist.**

County of Orange

see **Hinrichs v. County of Orange**

County of Riverside

see **Jenkins v. County of Riverside**

Cramer v. Superior Court of Los Angeles County

Compensation received by court reporters for preparation of transcripts in felony proceedings is not considered in the calculation of their retirement benefits. Government Code Sec. 31554 limits court reporters' compensable earnings to their salary and per diem payments.

(6-9-05) 130 Cal.App.4th 42, 173 CPER 24

Craven

see **Hudson v. Craven**

Cupertino Union School Dist.

see **Service Employees International Union, Loc. 715 v. Cupertino Union School Dist.**

D

Department of Corrections

see **Brown v. Department of Corrections**
McRae v. Department of Corrections
Miller v. Department of Corrections

E

Equal Employment Opportunity Commission v. United Parcel Service, Inc.; Bryan v. UPS, Inc.

Certain United Parcel Service employees with monocular vision are disabled within the meaning of California's Fair Employment and Housing Act. However, UPS did not discriminate by refusing to allow them to drive trucks because the employer demonstrated that the employees would "endanger the health or safety of others to a greater extent than if an individual without a disability performed the job." The court addressed the threshold question of whether the plaintiffs' qualifying medical condition "limits a major life activity" within the meaning of the act and distinguished this test from the federal Americans With Disabilities Act test which requires that a plaintiff's condition "*substantially* limit a major life activity."

(9th Cir. 9-15-05) 424 F.3d 1060, 175 CPER 56

Equal Employment Opportunity Commission et al. v. National Education Association; Equal Employment Opportunity Commission v. National Education Association, Alaska

Title VII's prohibition against sex discrimination in employment may be violated even where the employer's actions are not motivated by sexual desire or sexual animus.

(9th Cir. 9-2-05) 422 F.3d 840, 175 CPER 55

F

Florio v. City of Ontario

The provision of an MOU that required a city employee to bear half the cost for a hearing officer in a termination appeal is unconstitutional. The infirmity was not waived by the contractual provisions negotiated by the employee organization. The cost-sharing provision had an impermissible chilling effect on employees and was intended by the city to reduce the number of appeals.

(7-13-05) 130 Cal.App.4th 1462, 174 CPER 68

G

Glacier Northwest, Inc.

see **Head v. Glacier Northwest, Inc.**

Goshorn v. State of California

Public entities are not required to pay costs associated with purchasing, replacing, cleaning, or maintaining

required work uniforms. In seven consolidated cases, the court found the indemnification provisions of Labor Code Sec. 2802 are superseded by constitutional and statutory provisions and negotiated collective bargaining agreements.

(10-11-05) 133 Cal.App.4th 328, 175 CPER 59

Governing Board of the Long Beach Unified School Dist.

see **Veguez v. Governing Board of the Long Beach Unified School Dist.**

Governing Board of the South Orange County Community College Dist.

see **California School Employees Assn. v. Governing Board of the South Orange County Community College Dist.**

H

Harrah's Operating Company, Inc.

see **Jespersen v. Harrah's Operating Company, Inc.**

Hartnell Community College Dist. v. Superior Court

The parties' arbitration agreement did not give the district the unilateral power to determine arbitrability.

(12-15-04) 124 Cal.App.4th 1443, 170 CPER 83

Head v. Glacier Northwest, Inc.

Under the Americans With Disabilities Act, an employee need not show that the employer discriminated against him solely "because of" his disability, but only that his disability was one of the employer's motivating factors. The employee need not present medical evidence to support his claim that his disability impaired a major life activity. The employee's testimony can suffice to meet his burden of proof.

(9th Cir. 7-6-05) 413 F.3d 1053, 174 CPER 66

Hinrichs v. County of Orange

Procedural rights conveyed by the Public Safety Officers Procedural Bill of Rights Act encompass the right to discovery of any non-confidential reports or documents created by the public agency in the course of an investigation into allegations of misconduct. The discovery right encompassed in Sec. 3303(d) extends to peace officers who have been served with a written reprimand.

(12-20-04; request for publication granted 1-12-05)
125 Cal.App.4th 921, 170 CPER 50

Hood v. Compton Community College Dist.

Classified employees who work for a community college's personnel commission are employees of the community college district, not the personnel commission.

(3-24-05) 127 Cal.App.4th 954, 172 CPER 44

Hudson v. Craven

A community college's legitimate concerns for student safety and its own reputation outweighed an instructor's right to attend a protest with some of her students. The case involved the appropriate test for evaluating a hybrid claim involving both speech and associational rights under the First Amendment. The court settled on the balancing test developed by the Supreme Court in *Pickering v. Board of Education* (1968) 391 U.S. 563.

(9th Cir. 4-6-05) 403 F.3d 691, 172 CPER 39

I

Irvine Valley College Academic Senate v. Board of Trustees of the South Orange Community College Dist.

Community college districts cannot adopt faculty hiring procedures without first obtaining the agreement of their academic senates. The court rejected the district's arguments that the senates lack standing to bring a legal challenge and that Education Code Sec. 87360 does not insist on agreement over the hiring procedures.

(6-8-05) 129 Cal.App.4th 1482, 173 CPER 27

J

Jackson v. Birmingham Board of Education

A teacher who was removed as coach of a high school girls' basketball team after complaining of discrimination against the team has a right to sue for retaliation under Title IX of the Education Amendments of 1982. Title IX bans discrimination "on the basis of sex" in any school receiving federal funding. The prohibition covers admissions, recruitment, course offerings, counseling, financial aid, student health and housing, and athletics. Because the statute contains no express prohibition on retaliation, lower courts had found there was no private right of action for retaliation under the act.

(3-29-05) 544 U.S. 167, 170 CPER 71, 172 CPER 75

Jenkins v. County of Riverside

The county wrongfully terminated an employee who, while designated as temporary, scored high enough on civil service exams to be hired for a permanent position. The court ruled the county deprived the employee of her property right in continued public employment in violation of constitutional due process principles.

(9th Cir. 2-9-05) No. 03-55412, ___F.3d___, 171 CPER 42; memorandum withdrawn, case depublished.

Jespersen v. Harrah's Operating Company, Inc.

Firing a female employee for refusing to wear makeup does not violate the sex discrimination prohibitions of Title VII of the Civil Rights Act of 1964.

(9th Cir. 12-28-04) 692 F.3d 602, 170 CPER 68

Jones v. Omnitrans

A grievance procedure contained in an MOU that gives the union the exclusive authority to request arbitration does not violate an individual employee's due process rights. The grievance and arbitration procedure outlined in the MOU conveyed ample due process protections, and the union's decision not to invoke arbitration was subject to challenge based on typical duty of fair representation standards.

(12-23-04) 125 Cal.App.4th 273, 170 CPER 81

K**Kolender v. San Diego County Civil Service Commission**

The commission abused its discretion when it reduced a deputy's termination to a 90-day suspension. The court admonished the commission for its indifference to public safety and welfare where the deputy had been complicit in covering up the abuse of an inmate to protect a fellow officer.

(9-12-05) 132 Cal.App.4th 716, 174 CPER 38

Kolender v. San Diego County Civil Service Commission; Salenko, RPI

There was no abuse of discretion in the commission's modification of discipline imposed by the sheriff for an officer's shoddy report writing. The commission was entitled to independently review the evidence concerning a sergeant's investigation into allegations of sick leave abuse and was not merely required to assess whether there was substantial evidence to support the sheriff's conclusions.

(9-21-05) 132 Cal.App.4th 1150, 175 CPER 28

L**Leonel v. American Airlines, Inc.**

Three flight attendant applicants who were required to undergo medical tests, including an HIV-test, prior to being hired can sue the airline for discrimination and violation of their constitutional right to privacy. In order to comply with applicable non-discrimination statutes, the medical exam always must be conducted *after* all other steps in the application process and *after* making a job offer conditional only on the results of that examination. If the employer wants to include testing as part of the medical examination, it should notify applicants in writing of the nature of the tests and obtain their prior consent.

(9th Cir. 3-4-05) 400 3d 702, 171 CPER 74

Lonicki v. Sutter Health Central

An employee's rights under the Moore-Brown-Roberti Family Rights Act are not employer-specific. An employee is entitled to medical leave only if she can show that her health condition precluded her from performing the essential job functions generally, not just for a specific employer.

(12-10-04) 124 Cal.App.4th 1139, 170 CPER 73

L'Oreal, Inc.

see **Yanowitz v. L'Oreal, Inc.**

Los Angeles County Employee Relations Commission
see **Union of American Physicians and Dentists v. Los Angeles County Employee Relations Commission****M****McRae v. Department of Corrections**

To claim retaliation in violation of California's Fair Employment and Housing Act, the employee must show the employer's retaliatory actions had a detrimental and substantial effect on her employment. An aggrieved employee can seek assistance of the courts only for "final employment actions," not those subject to reversal or modification through an internal review process.

(3-18-05) 25 Cal.Rptr.3d 911, 172 CPER 79;
Supreme Court review granted, decision superceded
(6-29-05) 30 Cal.Rptr.3d 755

Metropolitan Water District of Southern California
see **American Federation of State, County and Municipal Employees, Loc. 1902 v. Metropolitan Water District of Southern California**

Miller v. Department of Corrections
 Employees who are passed over for promotion in favor of their bosses' lovers can sue for sexual harassment under California's Fair Employment and Housing Act.
 (7-18-05) 36 Cal.4th 446, 174 CPER 60

N

National Education Association
see **Equal Employment Opportunity Commission et al. v. National Education Association; Equal Employment Opportunity Commission et al. v. National Education Association, Alaska**

O

Omnitrans
see **Jones v. Omnitrans**

P-Q

Pinero v. Specialty Restaurants Corp.
 "Nitpicking" does not constitute the requisite adverse employment action needed to maintain a claim for retaliation under California's Fair Employment and Housing Act. The court avoided choosing between two different court-developed tests for retaliation, finding that nitpicking did not qualify under either test.
 (6-22-05) 130 Cal.App.4th 635, 173 CPER 49

Public Employment Relations Board
see **Coachella Valley Mosquito and Vector Control Dist. v. California Public Employment Relations Board; California School Employees Assn., RPI**

R

Regents of the University of California
see **Campbell v. Regents of the University of California**

Reis v. Biggs Unified School Dist.
 Under Education Code Sec. 44929.21, a teacher obtains permanent status after two years of continuous employment as a probationary teacher in a position requiring certification. On the facts, the court found an exception to this rule was inapplicable.
 (2-9-05) 126 Cal.App.4th 809, 171 CPER 51

Ridgecrest Charter School v. Sierra Sands Unified School Dist.
 Under the Charter Schools Act of 1992, as amended by Proposition 39, school districts must provide charter schools with facilities that are "reasonably equivalent" to other public schools of the district; the facilities are to be "shared fairly among all public school pupils," including those in charter schools; and charter school students must be accommodated at one site or, if that is not possible, at "contiguous sites." These provisions require districts to provide facilities to charter schools, even if it means disruption and dislocation of other students and programs.
 (6-29-05) 130 Cal.App.4th 986, 173 CPER 30

Roe
see **City of San Diego v. Roe**

S

San Diego County Civil Service Commission
see **Kolender v. San Diego County Civil Service Commission**
Kolender v. San Diego County Civil Service Commission; Salenko, RPI

San Francisco Fire Fighters, Loc. 798 v. City and County of San Francisco
 Finding no exception to the charter-prescribed arbitration procedure, the court concluded that the city could not unilaterally change the terms and conditions of employment once it reached a bargaining impasse. At that point, the city was required to submit the matter to binding arbitration. In an unpublished portion of the decision, the court concluded the city had not established that its preferred promotion rule was necessary to ensure compliance with anti-discrimination laws and thereby was excused from complying with the impasse procedures.
 (1st Dist. 1-20-05) 23 Cal.Rptr.3d 364, 170 CPER 44; review granted (see below); case depublished

San Francisco Fire Fighters, Loc. 798 v. City and County of San Francisco

The Supreme Court will review the lower court ruling that the San Francisco Civil Service Commission was not free to unilaterally impose a promotional rule it said was necessary to comply with anti-discrimination laws.

(4-27-05) Supreme Court S131818, 173 CPER 24

Schnee v. Alameda Unified School Dist.

Under Education Code Secs. 44919 and 44920, regardless of the number of years that the employee may have served in a temporary status in a position with certification qualifications, the employee must serve one year as a probationary employee before acquiring permanent status. There is no reason for treating persons whose employment is temporary by virtue of Sec. 44909 differently in this respect than temporary employees under Sec. 44919.

(12-30-04) 126 Cal.App.4th 555, 170 CPER 39

Service Employees International Union, Loc. 715 v. Cupertino Union School Dist.

Recognizing the strong public policy favoring arbitration, the court ruled that a union's timely but procedurally flawed request to proceed to arbitration did not demonstrate a waiver of its contractual right.

(6th Dist. 8-3-05) 31 Cal.Rptr. 858, 174 CPER 71 (case depublished)

Sierra Sands Unified School Dist.

see **Ridgecrest Charter School v. Sierra Sands Unified School Dist.**

Smith v. City of Jackson

The Age Discrimination in Employment Act of 1967 authorizes recovery for disparate impact discrimination. However, the court upheld dismissal of a claim brought by a group of police officers that the city's plan for an across-the-board pay raise violated the rights of officers over 40.

(3-30-05) 554 U.S. 228, 172 CPER 71

Sony Pictures Entertainment, Inc.

see **Trop v. Sony Pictures Entertainment, Inc.**

Specialty Restaurants Corp.

see **Pinero v. Specialty Restaurants Corp.**

State of California

see **Goshorn v. State of California**

State Personnel Board; Department of Corrections, RPI

see **Sulier v. State Personnel Board; Department of Corrections, RPI**

Sulier v. State Personnel Board; Department of Corrections, RPI

Formal notice requirements spelled out in the state's civil service laws were not incorporated into the prescriptions of the Public Safety Officers Procedural Bill of Rights Act. Therefore, there is no mandate that state agencies provide formal notice of proposed disciplinary actions within the one-year statute of limitations period outlined by the act.

(12-20-04) 125 Cal. App.4th 21, 170 CPER 76

Superior Court

see **Board of Trustees of the California State University v. Superior Court, San Diego County; Copley Press, RPI**

California Commission on Peace Officer Standards and Training v. Superior Court; The Los Angeles Times Communications, RPI

Cramer v. Superior Court of Los Angeles County Hartnell Community College Dist. v. Superior Court

Versaci v. Superior Court (Palomar Community College Dist.)

Warrick v. Superior Court

Sutter Health Central

see **Lonicki v. Sutter Health Central**

T**Tellis v. Alaska Airlines Inc.**

A mechanic working for Alaska Airlines in Seattle was not "caring for" his pregnant wife when he traveled across the country to Atlanta to retrieve the family car in order to provide psychological assurance that she would have reliable transportation. The employee's absence from work was not a protected absence from employment under the federal Family and Medical Leave Act.

(9th Cir. 7-12-05) 414 F.3d 1045, 174 CPER 69

Trop v. Sony Pictures Entertainment, Inc.

A woman terminated while pregnant could not establish sex discrimination because her employer did not know of her pregnancy at the time of the firing. Even if the woman had been able to present a prima facie case of

discrimination, the record established she was terminated for poor work performance, not because of her pregnancy.

(5-31-05) 129 Cal.App.4th 1133, 173 CPER 46

U

Union of American Physicians and Dentists v. Los Angeles County Employee Relations Commission

The California Supreme Court declined a request to review the decision ordering the county to reinstate two medical benefit plans it no longer offered to county physicians once they opted for union representation.

(7-25-05) 131 Cal.App.4th 386; petition for review denied 10-12-05, 175 CPER 24

United Parcel Service, Inc.

see **Equal Employment Opportunity Commission v. United Parcel Service, Inc.; Bryan v. UPS, Inc.**

V

Veguez v. Governing Board of the Long Beach Unified School Dist.

A certificated school employee is not entitled to a second round of differential-pay sick leave for injuries suffered more than two years prior to when the subsequent injury was known and potentially treatable during the first leave. However, the district was wrong to refuse to reinstate her to her position upon a determination by her personal physician that she was able to return to work.

(3-7-05) 127 Cal.App.4th 406, 171 CPER 53

Versaci v. Superior Court (Palomar Community College Dist.)

Performance goals mentioned in, but not incorporated into, a school superintendent's employment contract are not subject to disclosure under California's Public Records Act. The court looked to the intent of the parties to determine whether the performance goals were part of the contract.

(3-21-05) 127 Cal.App.4th 805, 172 CPER 42

W-X

Warrick v. Superior Court

The court expanded the reach of *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, by opening the door to the trial court's "in chambers" review of the arresting officers' personnel records relating to incidents involving false arrests, planted evidence, fabricated police reports or probable cause, and perjury.

(6-2-05) 35 Cal.4th 1011, 173 CPER 21

Workers' Compensation Appeals Board

see **City of Long Beach v. Workers' Compensation Appeals Board**

Y-Z

Yanowitz v. L'Oreal, Inc.

The California Supreme Court will determine the test to be used in evaluating claims of retaliation for protected activity under the state's Fair Employment and Housing Act. The case involves a supervisor who alleges that she was harassed for refusing to fire a female employee whom her boss said was not attractive enough.

(2003) previously published at 106 Cal.App.4th 1036, 173 CPER 48, 174 CPER 23

PART III

TABLE OF PERB ORDERS AND DECISIONS

Section A: Annotated Table of PERB Orders and Decisions

Dills Act Cases

California Attorneys, Administrative Law Judges & Hearing Officers in State Employment v. State of California (Board of Prison Terms), No. 1758-S/173:66

(Insufficient evidence was presented to support the charge.)

California State Employees Assn., Loc. 1000, SEIU v. State of California (Dept. of Consumer Affairs), No. 1711-S/173:63

(Discipline of employees' supervisor did not interfere with employees' rights because it was not based on her testimony at their arbitration hearing. CSEA's interest in reports of an investigation concerning customer threats is outweighed by the privacy interests of the customer.)

Chen v. State of California (Dept. of Transportation), No. 1735-S/173:65

(The charge was dismissed because it failed to state a prima facie case.)

Chen v. California State Employees Assn., No. 1736-S/173:68

(The unfair practice charge was dismissed as untimely because it was filed more than six months after the employee knew or should have known the union failed to file a grievance on her behalf.)

Chen v. California State Employees Assn., No. 1749-S/173:68

(The union's duty of fair representation does not encompass an obligation to provide reasonable accommodation under the ADA.)

Chen v. California State Employees Assn., No. 1750-S/173:69

(The charge was dismissed for failure to state a prima facie case.)

Harris v. California State Employees Assn., No. 1696-S/171:90

(The union did not breach its duty of fair representation by failing to seek a waiver of the timeline for a grievance filing.)

International Union of Operating Engineers v. State of California (State Personnel Board; Dept. of Personnel Administration, Interested Party), No. Ad-343-S/173:65

(A five-day extension of the deadline applies when the board's letter granting an extension of time to file exceptions to an administrative law judge's proposed decision is served by mail within California.)

IUOE, Loc. 12 v. State of California (Department of Transportation), No. 1691-S/170:96

(The charge was dismissed and deferred to arbitration because the dispute was covered by the parties' memorandum of understanding and subject to arbitration.)

Lucketta v. State of California (Dept. of Corrections), No. 1723-S/173:64

(A union steward did not present a prima facie case that the employer took adverse action against him for protected activity when he instructed unit members not to follow management directives.)

Reddington v. State of California (Department of Forestry and Fire Protection), No. 1690-S/170:96

(The charging party failed to allege specific facts to support his claim of termination without cause.)

Sandberg v. California State Employees Assn., No. 1694-S/171:90

(The union did not breach its duty of fair representation because the charging party failed to show the union acted arbitrarily or in bad faith with respect to any of its actions.)

Stationary Engineers, Loc. 39 v. State of California [Department of Veterans Affairs], No. 1686-S/170:95

(Information sought by the union concerns workplace safety and is not protected by the attorney-client privilege.)

Wilson-Combs v. State of California (Dept. of Consumer Affairs), No. 1762-S/173:67

(Neither the Dills Act nor the *Weingarten* rule entitle an employee to have legal representation during a meeting with an employer.)

EERA Cases

Aguilera v. Alum Rock Union Elementary School Dist., No. 1748/173:81

(The charge was dismissed because the charging party did not have standing to bring the claim.)

Allan Hancock College Part-Time Faculty Assn. v. Allan Hancock Joint Community College Dist., No. 1685/170:99

(The district did not commit a violation by transferring bargaining unit work to non-unit employees who sporadically had performed that work in the past.)

Allan Hancock College Part-Time Faculty Assn. v. Allan Hancock Joint Community College Dist., No. Ad-340/170:98

(The administrative appeal to excuse the district's late-filed opposition was granted because the filing would have been timely had it been sent to the correct office.)

Armas v. San Ysidro Education Assn., No. Ad-341/170:99

(The administrative appeal to excuse an untimely filing was denied because the charging party had notice of the pertinent requirements.)

Banos v. United Educators of San Francisco, No. 1764/173:89

(The charging party failed to provide evidence demonstrating that the union acted arbitrarily or in bad faith)

Burbank Unified School Dist. and California School Employees Assn., No. 1710/172:94

(The administrative secretary to the director of personnel is a confidential employee, but the

administrative secretary to the assistant superintendent of business services remains within the bargaining unit.)

California School Employees Assn. v. Desert Sands Unified School Dist., No. 1682/170:97

(The district unilaterally transferred work between two bargaining unit classifications without negotiating with the charging party.)

California School Employees Assn. v. Desert Sands Unified School Dist., No. 1682a/173:73

(The union's request for reconsideration to restore the status quo ante was granted and the employer was ordered to rescind its unilateral act.)

California School Employees Assn. v. Folsom-Cordova Unified School Dist., No. 1712/173:69

(The district violated EERA by unilaterally contracting out prior to exhausting negotiations; the union did not engage in surface bargaining.)

California School Employees Assn. and its Chap. No. 1 v. Oakland Unified School Dist., No. 1770/174:86

(The board adopted the ALJ's proposed decision finding that the district violated EERA Secs. 3543.2 and 3543.5(a), (b), and (c) by unilaterally subcontracting police services to the Oakland Police Department.)

California School Employees Assn. and its Chap. 77 v. Lodi USD, No. Ad-346/173:81

(The late-filed response to exceptions was accepted because the party had good cause and doing so would not prejudice the opposing party.)

California School Employees Assn. and its Chap. 176 v. Barstow Community College Dist., No. 1745/173:80

(The request for withdrawal of the charge was granted.)

California School Employees Assn. and its Chap. 244 v. Colton Joint Unified School Dist., No. 1737/173:78

(The charge was dismissed because it failed to state a prima facie case.)

California School Employees Assn. and its Chap. 302 v. Fairfield-Suisun School Dist., No. 1734/173:77

(The charging party failed to establish a prima facie case of discrimination, but the unilateral change portion of the charge was remanded for further investigation.)

California School Employees Assn. and its Chap. 318 v. Stockton Unified School Dist., No. 1759/173:84

(The charge was dismissed because the charging party failed to provide evidence to support a claim of unilateral change of policy and discrimination.)

California School Employees Assn. and Its Chap. 347 v. Klamath-Trinity Joint Unified School Dist., No. 1778/175:76

(The unfair practice charge was dismissed because the district demonstrated that the bargaining unit position was eliminated for lack of funds, a non-discriminatory

reason, and the association failed to provide enough information to demonstrate that the transfer of duties from the eliminated position to other classifications was a violation.)

California School Employees Assn. and its Chap. 396 v. Parlier Unified School Dist., No. 1717/173:71

(Because the law did not permit the district to delegate its authority over disciplinary decisions at the time the contract language was negotiated, the district's insistence that a hearing officer's decision was not final did not constitute a unilateral change.)

Chambers v. United Teachers of Los Angeles, No. 1781/175:78

(The unfair practice charge alleging a breach of the duty of fair representation was dismissed because the charging party failed to demonstrate that the union acted in an arbitrary, discriminatory, or bad faith manner.)

Coverson v. United Educators of San Francisco, No. 1726/173:88

(The unfair practice charge was untimely since the conduct in question occurred more than six years before the charge was filed.)

Cummings v. Los Angeles County Office of Education, No. 1743/173:79

(The charge was dismissed for failure to state a prima facie case.)

Dorfman v. Los Angeles Unified School Dist., No. 1754/173:82

(The charge was dismissed because it was untimely and failed to state a claim under the board's jurisdiction.)

East Side Teachers Assn., CTA/NEA v. East Side Union High School Dist., No. 1713/173:70

(Deferral to arbitration under EERA is not jurisdictional and must be raised as an affirmative defense. Unilaterally changing the form for submission of public complaints against employees violates the act.)

East Whittier Education Assn. v. East Whittier School Dist., No. 1727/172:92

(The board affirmed its earlier ruling that teachers have the right to wear bargaining-related buttons in the presence of their students absent special circumstances and that the wearing of union buttons is not "political activity" within the meaning of Ed. Code Sec. 7055.)

Elk Grove Unified School Dist. and Elk Grove Administrative Support Assn.; Elk Grove Unified School Dist. and AFSCME, Loc. 258, No. 1688/170:101

(The disputed positions share a sufficient community of interest with the existing bargaining unit represented by AFSCME. Creation of a new unit is not justified.)

Ferguson v. Oakland Unified School Dist., No. 1645a/170:98

(The board denied the request for reconsideration because the charging party failed to present new evidence regarding his charge.)

Freeman v. Madera Unified School Dist., No. 1718/173:72

(The district did not violate EERA when it involuntarily transferred the charging party and two other teachers because of interpersonal conflicts.)

Freeman v. Madera Unified Teachers Assn., No. 1719/173:87

(The union did not breach its duty of fair representation by failing to pursue the charging party's grievance to arbitration.)

Fykes v. Los Angeles Unified School Dist., No. 1746/173:80

(The charge was dismissed for failure to state a prima facie case. The complainant failed to demonstrate a nexus between the adverse action and exercising his protected rights. The audit was not an adverse action.)

Hilmar Unified Teachers Assn. v. Hilmar Unified School Dist., No. 1725/173:75

(The district interfered with the association's rights when it directed the association not to contact the health benefits administrator directly to obtain information concerning benefits about which the parties were negotiating. The association waived its right to engage in informational picketing during a mediation session scheduled during graduation festivities.)

International Federation of Professional and Technical Engineers, Loc. 21, AFL-CIO v. Berkeley Unified School Dist., No. 1744/173:79

(The parties must petition the board to modify unit placement of employees and may not challenge the confidential status of employees using the unfair practice procedure.)

International Federation of Professional and Technical Engineers, Loc. 21, AFL-CIO v. San Francisco Unified School Dist. and City and County of San Francisco, No. 1721/173:74

(A school district, whether or not it has a merit system, is excluded from coverage under the MMBA.)

International Federation of Professional and Technical Engineers, Loc. 21, AFL-CIO v. San Francisco Unified School Dist. and City and County of San Francisco, No. 1721a/173:83

(Request for reconsideration was denied because it failed to state appropriate grounds for reconsideration.)

International Federation of Professional and Technical Engineers, Loc. 21, AFL-CIO v. Berkeley Unified School Dist., No. 1744/173:79

(The parties must petition the board to modify unit placement of employees and may not challenge the confidential status of employees using the unfair practice procedure.)

International Federation of Professional and Technical Engineers, Loc. 39, AFL-CIO v. Berkeley Unified School Dist., No. 1729/173:76

(Through language in the management rights clause, the union waived its right to negotiate over increases to health and welfare benefit payments that occurred after expiration of the agreement.)

King City High School Teachers Assn., CTA/NEA v. King City Joint Union High School Dist., No. 1777/175:75

(The district violated the collective bargaining agreement by failing to follow the provisions for salary calculations. However, there was no violation for failure to provide information.)

Lavan v. Berkeley Unified School Dist., No. 1702/172:92

(Because of the charging party's failure to engage in protected activity prior to her notice of reprimand or termination, she did not state a claim of discriminatory termination.)

Lynn v. College of the Canyons Faculty Assn., No. 1706/172:95

(There was no breach of the fair duty of representation where the employee was treated fairly and failed to familiarize herself with the grievance procedure.)

Mohseni v. United Teachers of Los Angeles, No. Ad-348/174:88

(A late filing was not excused because the charging party failed to corroborate his illness and provide a reasonable and credible explanation of how it prevented him from filing promptly.)

Montoya and Salinas Valley Federation of Teachers, AFT Loc. 1020, AFL-CIO v. Salinas Union High School Dist., No. 1692/171:91

(The charge was dismissed because it was filed after the six-month statute of limitations period elapsed.)

Mrvichin v. AFT College Staff Guild, Loc. 1521, No. Ad-349, 174:89

(The request to excuse the late filing of a second request for extension of time to file an appeal was denied because the party failed to demonstrate how his medical condition or pending litigation prevented him from timely filing.)

O'Neil, Salgado, Barham v. Santa Ana Educators Assn., No. 1776/175:77

(The dismissed duty of fair representation charge was

remanded to the general counsel for further investigation.)

Options for Youth-Victor Valley, Inc., and Victor Valley Options For Youth Teachers Assn., No. 1701/172:93

(OFY was found to be a political subdivision and therefore subject to PERB jurisdiction.)

Options for Youth-Victor Valley, Inc., and Victor Valley Options for Youth Teachers Assn., JR Order No. JR-22/173:86

(The employer failed to demonstrate a sufficient basis for the board to join in the request for judicial review of its decision regarding the appropriateness of a bargaining unit.)

Paige v. AFT Loc. 1521, No. 1769/174:89

(The duty of fair representation charge was dismissed because the union provided a reasonable explanation for its decision not to pursue the charging party's grievance to arbitration.)

Peterson v. California School Employees Assn., Chap. 36, No. 1683/170:97

(Employee organizations have latitude to manage their internal affairs as long as such choices are made lawfully.)

Peterson v. California School Employees Assn., Chap. 36, No. 1733/173:88

(The charging party failed to demonstrate that the association discriminated against him by preventing him from running for union office.)

Radford v. California Teachers Assn., No. 1763/173:89

(The charging party failed to prove that the union's actions were arbitrary or capricious. The union's representation obligation did not extend to enforcement of the Education Code.)

Richards v. California School Employees Assn. and its Chap. 183, No. 1716/173:87

(The association did not breach its duty of fair representation by failing to pursue the charging party's grievance.)

Sacramento City Unified School Dist. and Classified Supervisors Assn., No. 1773/174:88

(The unit modification petition was denied because the position in question was a management job that did not share a community of interest with the cafeteria site supervisors.)

San Leandro Teachers Assn. v. San Leandro Unified School Dist., No. 1772/174:86

(The union cannot use school mail facilities to distribute political material, regardless of who pays for the material or when it is distributed, because the prohibition on the use of district funds or equipment imposed by Education Code Sec. 7054 supercedes access rights under EERA.)

Simi Valley Educators Assn. v. Simi Valley Unified School Dist., No. 1714/173:71

(The district violated EERA when it committed an adverse action in retaliation for engaging in the protected conduct of requesting union representation at a meeting.)

Standard School Dist. v. Standard Teachers Assn., CTA/NEA, No. 1775/174:87

(The association violated EERA when it unilaterally refused to participate in the negotiated local peer assistance and review policy.)

Townsend v. Visalia Unified School Dist., No. 1687/170:100

(The district did not constructively discharge the charging party.)

Turlock Unified School Dist. v. California School Employees Assn. and its Chap. 56, No. Ad-345/173:85

(The appeal was denied and the decision to proceed with the election was upheld.)

United Educators of San Francisco v. San Francisco Unified School Dist., No. 1730/173:77

(The union was aware of the district's transfer of the employee when it filed a grievance and failed to file the unfair practice charge within six months of acquiring that knowledge.)

United Faculty Contra Costa v. Contra Costa Community College Dist., No. 1756/173:83

(The charge was dismissed because the union failed to provide enough evidence for the board to determine whether the district bargained in bad faith.)

United Teachers of Los Angeles v. Los Angeles Unified School Dist., No. 1765/173:85

(The charge was dismissed because the party seeking to have the arbitration award deferred failed to show the deferral standard had been met.)

Vacaville Teachers Assn. v. Vacaville Unified School Dist., No. 1767/173:83

(The request for withdrawal of the unfair practice charge was granted.)

Woodland Education Assn. v. Woodland Joint Unified School Dist., No. 1722/173:73

(The right of self-representation is not protected activity under EERA.)

Ybarra-Grosfield v. Oxnard Elementary School Dist., No. 1728/173:75

(The charge was deferred to arbitration under *Collyer* standards because the district is willing to proceed to arbitration and the issues raised in the grievance are the same as the allegations asserted in the unfair practice charge.)

Yosemite Faculty Assn. v. Yosemite Community College Dist., No. 1684/170:98

(The request to withdraw the charging party's appeal was granted following the parties' settlement.)

 HEERA Cases

Academic Professionals of California v. Trustees of the California State University (Stanislaus), No. 1705-H/172:96

(A newly promulgated computer-use policy citing Government Code restrictions on employee use of state property was not a unilateral change in disciplinary policy. The policy made discipline subject to the collective bargaining agreement, which incorporated the statutory bases for discipline listed in the Education Code.)

Academic Professionals of California v. Trustees of the California State University, No. 1751-H/173:92

(The board found that the non-discrimination policy for students implemented by the university did not constitute a change in policy or practice. As the complaint procedure applied only to students, it did not constitute a change for employees. The board also noted that discrimination against students was prohibited by law before enactment of the policy.)

Academic Professionals of California v. Trustees of the California State University, No. 1760-H/173:93

(The charging party failed to provide evidence to support its allegation that the university had made a unilateral change in past practice when it codified its *Skelly* hearing instructions.)

California State Employees Assn. v. Trustees of the California State University, No. 1732-H/173:90

(The university was not obligated to provide information when the association failed to reassert its request for an item that the university initially did not provide.)

California State Employees Assn. v. Trustees of the California State University (Sonoma), No. 1755-H/173:92

(Accepting the charging party's allegations as true, the union established a prima facie case of discrimination. The allegation that the university failed to provide information was dismissed for lack of evidence.)

California State Employees Assn., Loc. 1000, CSU Div. v. Trustees of the California State University (Sacramento), No. 1740-H/173:91

(The charge was dismissed for failure to state a prima facie case.)

Cornelius v. Trustees of the California State University, No. 1697-H/171:91

(Mere mention of the impact of planned protected activity after a termination decision has been made is insufficient to demonstrate nexus.)

Graves v. Trustees of the California State University, No. 1741-H/173:91

(The unfair practice charge was dismissed for failure to state a prima facie case under PERB's jurisdiction.)

Sarka v. Regents of the University of California, No. 1771-H/174:90

(The charges concerning *Skelly* hearing deficiencies were untimely, and the allegation that an independent investigator was an agent of the university was not supported.)

Trustees of the California State University and California Faculty Assn.; and California Alliance of Academic Student Employees/UAW, Joined Party, No. Ad-344-H/173:93

(A new staffperson's lack of familiarity with procedures for PERB filings constitutes good cause for late filing.)

Trustees of the California State University and California Faculty Assn.; and California Alliance of Academic Student Employees/UAW, Joined Party, No. JR-23-H/173:94

(CSU did not establish that a case involving unit clarification was a matter of special importance meriting judicial review.)

Trustees of the California State University and California Faculty Assn., No. Ad-347-H/174:91

(CFA's unit modification petition was denied because it was not filed until after UAW had been recognized as the exclusive representative of the academic student union.)

Trustees of the California State University, California Faculty Assn., and California Alliance of Academic Student Employees/UAW, No. Ad-342-H/171:94

(The unit modification was clarified to exclude students who are employed to perform instructional activities, but whose employment status is not solely and exclusively dependent on their status as degree-seeking students in the department in which they are employed.)

University Professional and Technical Employees, CWA Loc. 9119, AFL-CIO v. Regents of the University of California, No. 1700-H/171:92

(University's limitations on union access were overly broad.)

MMBA Cases

AFSCME v. City of Ontario, No. 1695-M/171:95

(The charging party failed to demonstrate an alteration in policy that would constitute a unilateral change.)

Building Trades Council v. Oakland Housing Authority, No. 1739-M/173:97

(The charge was dismissed because it failed to state a prima facie case.)

Coleman v. Public Employees Union, Loc. 1, No. 1780-M/175:79

(The duty of fair representation charge was dismissed.)

County of San Joaquin v. San Joaquin County Correctional Officers Assn., No. 1703-M/172:96

(The county's unfair practice charge and appeal were withdrawn with prejudice.)

DuLaney v. City of San Diego; Dulaney v. San Diego Municipal Assn., No. 1738-M/173:96

(Providing different benefits based on union membership constitutes an adverse action and is a violation of the MMBA. It is a violation of the duty of fair representation for a union to negotiate an agreement that discriminates against employees who abstain from participating in the union.)

Flenoy v. Alameda County Medical Center, No. 1707-M/172:97

(The charging party's termination evidence did not state a prima facie case of retaliation.)

Flenoy v. Alameda County Medical Center, No. 1707a-M/173:98

(The request for reconsideration was denied for failure to provide valid grounds for reconsideration.)

Fresno Irrigation District Employees Assn. v. Fresno Irrigation Dist., No. 1565a-M/173:96

(PERB's decision in *Fresno Irrigation Dist.* (2003) No. 1565-M was vacated and the underlying complaint and unfair practice charge dismissed at the direction of the Fifth District Court of Appeal.)

Geismar v. Marin County Law Library, No. 1655a-M/170:102

(The request was sufficiently frivolous and contemptuous to merit an award of attorneys' fees to the employer.)

Geismar v. Marin County Law Library, No. Ad-338a-M/170:102

(The request was denied because the charging party did not set forth any of the statutory grounds for reconsideration.)

Hessong v. Service Employees International Union, Loc. 250, No. 1693-M/171:98

(There was no violation of the duty of fair representation because the union diligently pursued the questioned grievances.)

Huntsberry v. Alameda County Probation Peace Officers Assn., No. 1709-M/172:98

(There was no breach of the duty of fair representation because the union owes no duty to its members in a forum over which it does not exclusively control the means to a particular remedy.)

Huntsberry v. County of Alameda, No. 1708-M/172:98

(A charge alleging wrongful termination is outside the board's jurisdiction.)

International Association of Firefighters, Loc. 188 v. City of Richmond, No. 1720-M/173:95

(Under MMBA, the effect of the decision to lay off employees is within the scope of representation, but the decision itself is a matter reserved to the employer.)

Kempe v. IUOE Loc. 39, No. 1747-M/173:101

(The union's presentation of a grievance in arbitration did not violate its duty of fair representation.)

Kromann v. Contra Costa County Health Services Dept., No. 1742-M/173:97

(The unfair practice charge was dismissed for failure to state a prima facie case.)

Laborers Loc. No. 270 v. City of Monterey, No. 1766-M/173:99

(The city violated the MMBA by interfering with the employee's right to designate a representative of his choice at his termination hearing and the union's right to represent a member in his employment relations with his employer.)

Modesto City Employees Assn. v. City of Modesto, No. 1724-M/173:95

(The express contract provision in the parties' agreement sets the health care premium payment schedule and supersedes the alleged past practice of premium parity among bargaining units. Thus, no unilateral change in health care premiums was demonstrated.)

Municipal Employees Association of Beverly Hills v. City of Beverly Hills, No. 1681-M/170:101

(The unfair practice charge challenging the confidential status of administrative secretaries is untimely.)

Neal v. Contra Costa County Health Services Dept., No. 1752-M/173:98

(The charge was dismissed because the party had not engaged in protected activity and therefore failed to state a prima facie case.)

Paez v. SEIU Loc. 790, No. 1774-M/174:92

(There was no duty of fair representation violation because the union called most of the charging party's witnesses

and presented a large amount of evidence to support his claim.)

Riverside Sheriffs Assn. v. County of Riverside, No. 1715-M/173:94

(Adamant insistence on a bargaining position is not a refusal to bargain in good faith.)

San Francisco Institutional Police Officers Assn. v. City and County of San Francisco, No. 1779-M/175:78

(The board remanded the unfair practice charge to the general counsel for further processing.)

Service Employees International Union, Loc. 535 v. County of Fresno, No. 1731-M/173:96

(The work group set up by the employer to plan for a new detention center did not infringe on the rights of the exclusive representative.)

Service Employees International Union, Loc. 949 v. City of San Rafael, No. 1698-M/171:96

(The charging party failed to demonstrate that the city's local rule was unreasonable.)

Service Employees International Union, Loc. 1877 v. Oakland Housing Authority, No. 1753-M/173:98

(The charge was dismissed for failure to state a prima facie case.)

Tacke v. Modesto Irrigation Dist., No. 1768-M/174:91

(The unfair practice charge was dismissed because PERB regulations and the local employee relations rules provide that employee organizations, not employees, may petition for unit modification.)

Teamsters Loc. 517 v. Golden Empire Transit Dist., No. 1704-M/172:96

(The charging party is entitled to receive the home addresses and phone numbers of unit employees from the district.)

Whittier City Employees Assn. v. City of Whittier, No. 1761-M/173:99

(The charge was dismissed because the charging party failed to show there was any change in policy or practice.)

Womble v. County of Colusa, No. 1757-M/173: 99

(The charge was dismissed for failure to demonstrate that the charging party participated in any protected activity.)

Yuba County Employees Assn., Loc. No. 1 v. County of Yuba, No. 1699-M/171:97

(The county's action did not constitute a unilateral change because the charging party agreed to the change in policy.)

Section B: Key to Orders and Decisions by PERB Decision Number

No. 1565a-M	Fresno Irrigation District Employees Assn. v. Fresno Irrigation Dist./173:96	No. 1692	Montoya and Salinas Valley Federation of Teachers, AFT Loc. 1020, AFL-CIO v. Salinas Union High School Dist./171:91
No. 1645a	Ferguson v. Oakland Unified School Dist./170:98	No. 1693-M	Hessong v. Service Employees International Union, Loc. 250/171:98
No. 1655a-M	Geismar v. Marin County Law Library/170:102	No. 1694-S	Sandberg v. California State Employees Assn./171:90
No. 1681-M	Municipal Employees Association of Beverly Hills v. City of Beverly Hills/170:101	No. 1695-M	AFSCME v. City of Ontario/171:95
No. 1682	California School Employees Assn. v. Desert Sands Unified School Dist./170:97	No. 1696-S	Harris v. California State Employees Assn./171:90
No. 1682a	California School Employees Assn. v. Desert Sands Unified School Dist./173:73	No. 1697-H	Cornelius v. Trustees of the California State University/171:91
No. 1683	Peterson v. California School Employees Assn., Chap. 36/170:97	No. 1698-M	Service Employees International Union, Loc. 949 v. City of San Rafael/171:96
No. 1684	Yosemite Faculty Assn. v. Yosemite Community College Dist./170:98	No. 1699-M	Yuba County Employees Assn., Loc. No. 1 v. County of Yuba/171:97
No. 1685	Allan Hancock College Part-Time Faculty Assn. v. Allan Hancock Joint Community College Dist./170:99	No. 1700-H	University Professional and Technical Employees, CWA Loc. 9119, AFL-CIO v. Regents of the University of California/171:92
No. 1686-S	Stationary Engineers Union, Loc. 39 v. State of California (Department of Veterans Affairs)/170:95	No. 1701	Options for Youth-Victor Valley, Inc., and Victor Valley Options For Youth Teachers Assn./172:93
No. 1687	Townsend v. Visalia Unified School Dist./170:100	No. 1702	Lavan v. Berkeley Unified School Dist./172:92
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