2006 CPER INDEX

An index to the 2006 issues of

CALIFORNIA PUBLIC EMPLOYEE RELATIONS (CPER)

Issues 176-181

A service of the California Public Employee Relations Program

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HOW TO USE THE CPER ANNUAL INDEX

The 2006 issues of the *CPER* bimonthly periodical — No. 176 (February) through No. 181 (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. 176 is printed as **176:22**. 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: (l) 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 2006 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 seven statutes under PERB's jurisdiction. This volume contains cases under the Dills Act, the Educational Employment Relations Act (EERA), the Higher Education Employer-Employee Relations Act (HEERA), the Meyers-Milias-Brown Act (MMBA), and the Trial Court Employment Protecton and Governance Act (Trial Court Act). 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).

PART I

GENERAL INDEX

D

DISCRIMINATION — DISABILITY

DISCRIMINATION — IN GENERAL

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DUTY TO BARGAIN (MEET AND CONFER) IN GOOD FAITH

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EMERGENCY SERVICES ACT

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Santa Clara Firefighers Association

EMPLOYEE ORGANIZATIONS — HIGHER EDUCATION

American Federation of State, County and Municipal Employees

California Faculty Association

California Nurses Association

California State University Employees Union

Coalition of University Employees

EMPLOYEE ORGANIZATIONS — STATE

EMPLOYERS, CALIFORNIA PUBLIC

Note: Employers are listed under subheadings indicating the type of agency.

Cities

Alhambra

Bell Gardens

California City

Carson

Claremont

Culver City

Del Mar

Downey

Fountain Valley

Fullerton

Indio

Los Alamitos

Los Angeles

Pasadena

Sacramento

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San Jose

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Stockton

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Yorba Linda

Counties

Contra Costa

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Tehema

Tulare

MMBA

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S

SAFETY SERVICES EMPLOYEES

SCOPE OF BARGAINING

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PART II

TABLE OF CASES

A

Arnold Worldwide, Inc.
see **Dore v. Arnold Worldwide, Inc.**

Ash v. Tyson Foods, Inc.
Use of the term "boy" by a white supervisor referring to an African-American male is not evidence of discrimination unless modified by a racial classification. The Supreme Court also found the appellate court erred in its articulation of the standard for determining whether evidence concerning disparate job qualifications demonstrates that the employer's stated reason for its promotional decision is pretextual.
(2-1-06) 546 U.S. 454/177:58

Ayers
see **Freitag v. Ayers**

B

Baize v. Eastridge Co.
Unless specifically provided for in the arbitration agreement, arbitrators' decisions are not reviewable for errors of fact or law.
(8-25-06) 142 Cal.App.4th 293/180:86

Bass v. County of Butte
California's Unruh Civil Rights Act and Disabled Persons Act cannot be read to include the protections of the federal Americans with Disabilities Act.
(9th Cir. 8-15-06) 458 F.3d 978/180:81

Bates et al. v. United Parcel Service
United Parcel Service is prohibited from categorically excluding from employment as "package-car drivers" individuals who cannot pass a Department of Transportation hearing test. UPS' conduct violated the Americans with Disabilities Act and California's Fair Employment and Housing Act, but not California's Unruh Civil Rights Act.
(9th Cir. 10-10-06) 465 F.3d 1069/181:57

Berry v. Department of Social Services, Tehama County
A county social worker was reasonably barred from praying with his clients, displaying religious items on his desk, and using a conference room to conduct prayer meetings with coworkers. Applying the *Pickering* balancing test, the court reasoned that the county could not accommodate the employee's religious beliefs without running the risk of appearing to support his religious tenets.
(9th Cir. 5-1-06) 447 F.3d 642/178:65

BRV, Inc. v. Superior Court
The report of an investigation into allegations of misconduct by a school district superintendent cannot be protected from public disclosure by an agreement between the district and the superintendent. The public's interest in disclosure outweighed the superintendent's interest in keeping the report confidential under the Public Records Act's balancing test.
(9-29-06) 143 Cal.App.4th 742/181:30

Burlington Northern & Santa Fe Railway Co. v. White
Employees who complain of harassment or discrimination are protected against retaliation under Title VII of the Civil Rights Act of 1964, even if the retaliatory act is not connected to the terms, conditions,

or status of employment. The decision resolves conflicts between various federal appellate circuits regarding whether the challenged action has to be employment- (or workplace-) related and about how harmful that action must be to constitute retaliation.

(6-22-06) 126 S.Ct. 2405/179:68

C

Cable Connection, Inc. v. DIRECTV, Inc.

DIRECTV attempted to compel judicial review by placing a term in the parties' contract that stated, "arbitrators shall not have the power to commit errors of law." This wording was an attempt to create an exception to the general rule that limits judicial review and was viewed as an "end run" around *Moncharsh*.

(9-22-06) 143 Cal.App.4th 207, 2006 DJDAR 12921/181:65

California Agricultural Labor Relations Board; United Food and Commercial Workers Union and Fresh Fruit and Vegetable Workers, Local 1096, RPI

see **The Hess Collection Winery v. California Agricultural Labor Relations Board; United Food and Commercial Workers Union and Fresh Fruit and Vegetable Workers, Local 1096, RPI**

California Department of Veterans Affairs

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

California Youth Authority

see **Hope v. California Youth Authority**

Carter v. California Department of Veterans Affairs

An amendment to the Fair Employment and Housing Act making employers liable when their employees are harassed by nonemployees applies retroactively because the amendment did not change existing law but merely clarified it.

(6-8-06) 38 Cal.4th 914/179:71

CBS Broadcasting, Inc.

see **Hardage v. CBS Broadcasting, Inc.**

City and County of San Francisco

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

City of Burbank

see **Raine v. City of Burbank**

City of Los Angeles

see **Sanchez v. City of Los Angeles**

City of Sacramento

see **Pitts v. City of Sacramento**

City of Stockton v. Workers' Compensation Appeals Board

A police officer for the City of Stockton who injured his leg during a "pickup" game of basketball while off duty, was not entitled to workers' compensation benefits. The recreational activity was neither a reasonable expectancy of, nor expressly or impliedly required by, his employment.

(1-27-06) 135 Cal.App.4th 1513/177:31

Claremont Police Officers Assn. v. City of Claremont

The city was entitled to unilaterally implement a data collection study designed to assess whether police officers were engaged in racial profiling. There was no requirement to meet and confer with the association first because the study did not have a significant and adverse effect on the officers' working conditions.

(8-14-06) 39 Cal.4th 623/180:21

Claudio v. Regents of the University of California

Although the interactive process usually takes place between the employer and the employee, without involvement of attorneys, special circumstances existed that rendered unreasonable the employer's refusal to communicate with the employee's counsel. The court returned to the trial court the issue of whether the university violated its duty under the Fair Employment and Housing Act to engage in an interactive process to determine whether it could reasonably accommodate a disabled employee.

(11-22-05) 134 Cal.App.4th 224/176:67

efforts to correct a hostile work environment. However, since her internal complaints about the harassment may not be protected speech under *Garcetti v. Ceballos* (2006) 126 S.Ct. 1951, 179 CPER 21, the court directed the trial court to determine whether the jury's consideration of this speech was harmful error.

(11-03-06) 468 F.3d 528 (pet. for rehearing den)/ 181:53

G

Garcetti v. Ceballos

When public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

(5-30-06)126 S.Ct. 1951/179:21, 180:13

Gelfo v. Lockheed Martin Corp.

California's Fair Employment and Housing Act requires employers to provide reasonable accommodations to employees regarded as disabled, even if not actually disabled. And, employers must engage in an informal interactive process aimed at effecting accommodation.

(6-2-06) 140 Cal.App.4th 34/179:74

Governing Board of the San Leandro School Dist.

see **San Leandro Teachers Assn. v. Governing Board of the San Leandro School Dist.**

Grant Joint Union High School Dist.

see **Patten v. Grant Joint Union High School Dist.**

H

Hardage v. CBS Broadcasting, Inc. (I)

The court dismissed a lawsuit brought by an employee who was sexually harassed by his supervisor. The majority found that, although there was no dispute that the harassment took place, the employee suffered no tangible employment action and the employer took reasonable care to prevent and correct the harassment. The court reached this conclusion despite the fact that the employer did not investigate the complaint and took no corrective action.

(9th Cir. 11-1-05, amended 1-6-06) No. 03-35906, 427 F.3d 1177, amended and superseded on rehearing (9th Cir. 1-6-06) ___F.3d___, 2006 WL27475/176:58

Hardage v. CBS Broadcasting, Inc. (II)

The Ninth Circuit Court of Appeals panel amended its opinion in *Hardage v. CBS Broadcasting, Inc.*, further addressing the employer's duty to investigate a complaint of sexual harassment where the complainant failed to report specific details concerning the harassment and indicated that he wanted to handle the situation himself. The majority commented that, "Considering the 'overall picture,' CBS's response was both prompt and reasonable as a matter of law."

(9th Cir. 11-1-05, amended 1-6-06, second amendment 2-8-06) No. 03-35906, 427 F.3d 1177, amended and superseded on rehearing (9th Cir. 1-6-06) 433 F.3d 672, amended and superseded (9th Cir. 2-8-06) 436 F.3d 1050/177:59

Harrah's Operating Co., Inc.

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

Hope v. California Youth Authority

The court upheld a jury award of $2 million against the California Youth Authority for sexual-orientation harassment in violation of California's Fair Employment and Housing Act. The plaintiff, a gay man who worked as a cook in a correctional facility, was subjected to derogatory remarks by his immediate supervisor and a coworker based on his sexual orientation.

(11-30-05) 134 Cal.App.4th 577, certified for publication, S138308, 2005 DJDAR 13780/176:65

Hunton

see **Sonoma State University and Octagon Risk Services v. Workers' Compensation Appeals Board and Hunton**

I

International Chemical Workers Union Council of the United Food & Commercial Workers International v. National Labor Relations Board
An employer who asserts an inability to pay in response to a union's proposal for wage and benefit increases fails to bargain in good faith when it refuses to reveal its financial documents to support its claim.
(9th Cir. 4-28-06) 447 F.3d 1153/178:63

J

Jespersen v. Harrah's Operating Co., Inc.
An employer's requirement that women employees wear makeup did not constitute sex discrimination under Title VII.
(4-14-06} 444 F.3d 1104/178:59

Jones v. Los Angeles County Office of Education
An employee injured on the job and then denied disability retirement benefits was entitled only to be placed on a reemployment list, not to reinstatement.
(12-09-05) 134 Cal.App.4th 983/176:28

Josephs v. Pacific Bell
In a situation where "new elements of unfairness, not existing at the time of the original violation," have arisen and attach to the denial of reemployment, that conduct can constitute a separate claim of discrimination. The majority affirmed the jury's verdict, finding the employer's refusal to reinstate the employee violated the Americans with Disabilities Act and the Fair Employment and Housing Act.
(9th Cir. 12-27-05) 432 F.3d 1006/176:62

K

Kelly v. County of Los Angeles
Government Code Sec. 31725 requires an employer to reinstate an employee who has been dismissed due to disability if that employee is found by the retirement board not to be disabled. The reinstatement must be retroactive to the day following the effective date of dismissal, and include back wages and benefits.
(7-26-06) 141 Cal.App.4th 910/180:48

Kelly v. Stamps.com, Inc.
The employee was terminated because of her pregnancy in violation of the California Fair Employment and Housing Act. The employee demonstrated that the company's stated reasons for her termination were pretextual, even though the employer had laid off many other employees at the same time for legitimate business reasons.
(12-21-05, modified 1-20-06) 135 Cal.App.4th 1088/177:63

L

Levi Strauss & Co.
see **Neisendorf v. Levi Strauss & Co.**

Lockheed Martin Corp.
see **Gelfo v. Lockheed Martin Corp.**

Lockyer
see **Opinion of A. G. Bill Lockyer**

Los Angeles County Office of Education
see **Jones v. Los Angeles County Office of Education**

Lyle v. Warner Brothers Television Productions
A writers' assistant who was required to attend meetings at which writers for the television series *Friends* displayed sexually course and vulgar language and conduct, did not experience hostile workplace sexual harassment within the meaning of California's Fair Employment and Housing Act. The court relied heavily on the fact that most of the language was not directed to the complainant or other women in the workplace and that the *Friends* production was "a creative workplace focused on generating scripts for an adult-oriented comedy show featuring sexual themes."
(4-20-06) 38 Cal.4th 264/178:56

M

McRae v. Department of Corrections

Ordered to vacate and reconsider its decision in *McRae v. Department of Corrections* (2005) 127 Cal.App.4th 779, 172 CPER 79, in light of the California Supreme Court's decisions in *Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 174 CPER 23, and *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, the First District Court of Appeal modified its analysis, but not its conclusion that McRae failed to prove retaliation under California's Fair Employment and Housing Act.

(8-29-06) 142 Cal.App.4th 377/180:78

Miller v. Department of Corrections

Two women employed by the California Department of Corrections who alleged adverse job actions and harassment by a prison warden and his lover in violation of the Fair Employment and Housing Act can proceed to trial. The case was reconsidered in light of the California Supreme Court ruling that an employee may establish sexual harassment in violation of the FEHA "by demonstrating that widespread sexual favoritism was severe or pervasive enough to alter his or her working conditions and create a hostile environment."

(1-19-06) C040262 (3d Dist.) unpublished opinion/ 177:65

Morales

see **Professional Engineers in California Government v. Morales**

N

National Labor Relations Board

see **International Chemical Workers Union Council of the United Food & Commercial v. National Labor Relations Board**
Workers International v. National Labor Relations Board

Neisendorf v. Levi Strauss & Co.

California's Family Rights Act was not violated when an employee was fired the same day she returned to work after an extended leave. The CFRA's reinstatement requirement did not apply because the employee was not able to return to work at the expiration of the act's 12-week-maximum leave time and was not entitled to reasonable accommodation.

(9-28-06) 143 Cal.App.4th 509/181:60

O

Ohlone College

see **Wong v. Ohlone College**

Opinion of A. G. Bill Lockyer

The Ralph M. Brown Act requires local legislative bodies to conduct business openly and publicly. Personnel-related matters, such as employee discipline and dismissal, are not subject to public review. Although these sessions are closed to public participation and debate, the act does require that *actions* taken in these sessions be publicly disclosed. An opinion of the Attorney General determined that the outcome of a closed session held to consider the dismissal of a public employee need not be reported if the employee is retained by the local entity.

(5-25-06) Ops.Cal.Atty. Gen. No. 05-701, 2006 DJDAR 7371/179:42

Opinion by A.G. Bill Lockyer

Online charter schools may not receive state funding for the instruction of pupils unless the student resides in the county where the school is chartered or in an adjacent county.

(8-10-06) Ops.Cal.Atty.Gen. No. 06-201, 2006 DJDAR 10577/180:38

Opinion by A.G. Bill Lockyer

The Prison Industry Board may not establish an executive officer position exempt from the civil service system because it already has another exempt employee.

(8-23-06) Ops.Cal.Atty.Gen. No. 05-1014, 2006 DJDAR 11356/180:60

Opinion by A.G. Bill Lockyer

The governing board of a community college district may renegotiate the amount of health benefits under a collective bargaining agreement so long as a financially interested board member does not participate in the decisionmaking process.

(10-03-06) Ops.Cal.Atty.Gen. No. 05-1006, 2006 DJDAR 13425/181:36

P-Q

Pacific Bell
see **Josephs v. Pacific Bell**

Patten v. Grant Joint Union High School Dist.
A school district's transfer of a principal from one junior high school to another may constitute whistleblower retaliation under Labor Code Sec. 1102.5(b).
(12-19-05) 134 Cal.App.4th 1378/176:32

Peoples v. San Diego Unified School Dist.
Service under a university internship credential counts toward the attainment of permanent status if the employee completes one more year of service under a preliminary or clear credential.
(2006) 138 Cal.App.4th 463/178:23

Pitts v. City of Sacramento
Conditions placed on a police officer's right to reinstatement following denial of a disability retirement application did not foreclose a second petition seeking court review of the officer's belated acceptance of the conditional offer to return to work. The two petitions involved different rights, and the denial of the first did not bar the officer from bringing the second.
(4-19-02) 138 Cal.App.4th 853/178:34

Professional Engineers in California Government
see **Consulting Engineers and Land Surveyors of California, Inc. v. Professional Engineers in California Government**
Professional Engineers in California Government v. Morales

Professional Engineers in California Government v. Morales
The appeals court upheld Caltrans' contractor selection procedures and its disregard of statutory restrictions that existed prior to Prop. 35. However, in an unpublished portion of the opinion, it found that Caltrans had failed to comply with the Administrative Procedure Act, which requires the opportunity for public comment and review of new regulations.
(11-16-05) 134 Cal.App.4th 15/176:43

R

Raine v. City of Burbank
An employer's duty to provide reasonable accommodation to disabled employees under California's Fair Employment and Housing Act does not require the employer to make a temporary position permanent. The court adopted the reasoning of federal Circuit Courts of Appeals addressing a similar issue under the Americans with Disabilities Act.
(1-25-06) 135 Cal.App.4th 1215/177:60

Regents of the University of California
see **Claudio v. Regents of the University of California**
***San Francisco Chronicle* v. Regents of the University of California**

S

San Leandro Teachers Assn. v. Governing Board of the San Leandro School Dist.
School districts cannot prohibit teachers unions from distributing newsletters with political content to members' school mailboxes. The court overruled the Public Employment Relations Board holding in this case, and directly contradicted PERB's decision in *San Diego Community College Dist*. (2001) No. 1467, 152 CPER 86.
(5-3-06) Ala.Co.Sup.Ct. RG05235795/179:47

***San Francisco Chronicle* v. Regents of the University of California**
The regents violated open meeting laws by taking "action" on compensation for top university officials in closed meetings.
(8-1-06) Ala.Co.Sup.Co. R606269541/180:63

San Francisco Fire Fighters, Loc. 798 v. City and County of San Francisco
The City and County of San Francisco was not required to engage in binding interest arbitration with the San Francisco Fire Fighters, Local 798, over a bargaining impasse concerning a promotion rule mandated by anti-discrimination concerns.
(5-18-06) 38 Cal.4th 653/179:40

T

U-V

W-Y

Z

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 (Dept. of Personnel Administration), No. 1836-S/179:85
(The charge alleging bad faith bargaining was dismissed for failure to state a prima facie case.)

California Correctional Peace Officers Assn. v. State of California (Dept. of Corrections), No. 1848-S/180:99
(Because the union did not demand to bargain the effects of a non-negotiable decision, the charge was dismissed for failure to state a prima facie case.)

Horspool v. State of California (Dept. of Corrections), No. 1806-S/177:78
(The ALJ's sua sponte dismissal of a complaint was upheld because the party failed to demonstrate due diligence in pursuing the appeal or good cause for why the appeal was not timely filed.)

Kunkel v. State of California (Dept. of Transportation), No. 1835-S/178:82
(The charge was dismissed because it was untimely and, as the charging party was no longer a state employee, he no longer had standing to file an unfair practice charge under the Dills Act.)

Magner v. Dept. of Forestry and Fire Protection, No. 1862-S/181:75
(The charge failed to state a prima facie case because there was no evidence the charging party was denied representation at an investigatory interview.)

Meenakshi v. Union of American Physicians and Dentists, No. 1846-S/180:98
(Because exclusive representatives enjoy considerable bargaining latitude and are not expected to satisfy all unit members, the charge was dismissed for failure to state a prima facie case.)

Pittman v. CDF Firefighters, No. 1814-S/177:79
(The charge was dismissed for failure to demonstrate any violations of the Dills Act.)

Pittman v. CDF Firefighters, No. 1815-S/177:80
(The charge was dismissed for failure to demonstrate any violations of the Dills Act.)

Quigley v. Stationary Engineers Loc. 39, No. 1790-S/176:86
(The unfair practice charge was dismissed because the union had no duty to represent bargaining unit members before the State Personnel Board.)

Zanchi v. State of California (Dept. of Corrections), No. 1826-S/178:81
(The charging party failed to demonstrate a prima facie case because the filing of a fraudulent reimbursement, not the filing of a grievance, prompted the investigation.)

EERA Cases

Abner v. Compton Unified School Dist., No. 1805/177:81
(The unfair practice charge was dismissed because the party failed to demonstrate a nexus between the protected activity and the adverse action.)

Bruce v. California School Employees Assn., Chap. 198, No. 1858/181:75
(Because the grievant did not follow PERB regulations in filing her charge, and because the facts alleged did not state a prima facie case, the charge was dismissed.)

Burlingame Elementary School Dist. v. California School Employees Assn., No. 1847/179:86
(The district's unit modification petition to exclude the benefits and payroll specialist from a classified wall-to-wall bargaining unit was denied because the incumbent did not have regular access to, or possession of, information concerning the district's employer-employee relations and thus did not support classification as a confidential employee.)

Calexico Unified School Dist. v. Calexico Teachers Assn., No. 1860/181:76
(Because the parties mutually reached a settlement, the board found the withdrawal of the appeal in the best interests of the parties.)

Cardoso v. Teamsters, Loc. 228, No. 1845/180:100
(Because the union was not obligated to assist the charging party in filing an unfair practice charge with PERB, the claim was dismissed for failure to state a prima facie case.)

Casper v. Los Banos Unified School Dist., No. 1828/178:83
(The charge was dismissed for failure to state a prima facie case because the charging party failed to provide any evidence of protected activity.)

California School Employees Assn. and Its Chap. 549 v. Tamalpais UHSD, No. 1786/176:86
(The unfair practice charge was withdrawn at the request of the charging party.)

Grossmont Union High School Dist. v. Grossmont Education Assn., No. 1859/181:76
(Because the district failed to clearly allege that the association planned and/or organized a sickout, the case was dismissed for failure to state a prima facie case.)

Heggem v. Arcadia Teachers Assn., No. 1833/178:83
(The charge was dismissed because the union could require the charging party, a religious objector, to pay the equivalent of a temporary dues assessment to one of its designated charities.)

Jones v. SEIU Loc. 99, No. Ad-352/178:84
(The board accepted the late-filed exceptions to an ALJ's proposed decision because the charging party had not been timely served by PERB.)

Kahn v. Los Angeles Unified School Dist., No. 1791/176:88
(The unfair practice charge was dismissed because the charging party failed to demonstrate any evidence of an adverse action.)

Los Angeles School Police Assn. v. Los Angeles Unified School Dist., No. 1827/178:82
(A change in the ratio between bargaining unit and non-bargaining unit employees performing similar work does not constitute a unilateral change or transfer of bargaining unit work.)

Masskant v. Kern High Faculty Assn., CTA/NEA, No. 1834/178:84
(The charge was dismissed because the union had provided the agency fee payer with information and an opportunity to be heard, and because he was not entitled to vote.)

Maaskant v. Kern High Faculty Assn., CTA/NEA, No. 1844/180:99
(Although CTA was required to rebate non-chargeable expenses, the charging party failed to avail himself of the rebate procedure and the claim was dismissed for failure to state a prima facie case.)

Newark Teachers Assn., CTA/NEA v. Newark Unified School Dist., No. Ad-354/180:101
(A delay in filing caused by mailing a response to a PERB regional office instead of headquarters does not render the filing untimely.)

Pitner v. Contra Costa Community College Dist.; No. 1852/180:101
(The compliant was dismissed because the charging party failed to demonstrate retaliation for engaging in protected activities. The district did violate EERA by asking interview questions influenced by unlawful animus.)

Santee Teachers Assn. v. Santee Elementary School Dist., No. 1822/177:81
(The union waived its right to bargain a new board policy but not its impact; the district failed to bargain in good faith regarding the impact of the policy and also interfered with the right to engage in union activities.)

Thomas v. Los Angeles USD, No. 1787/176:87
(The unfair practice charge was dismissed because the charging party failed to show a nexus between her protected activity and the dismissal.)

West Hills Community College v. West Hills Faculty Assn., No. 1861/181:76
(Because the parties mutually reached a settlement, the board found the withdrawal of the appeal in the best interests of the parties.)

HEERA Cases

Abernathy et al. v. UPTE, CWA Loc. 9119, No. 1784-H/176:89
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Academic Professionals of California v. Trustees of the California State University, No. 1788-H/176:90
(The unfair practice charge was withdrawn and the appeal dismissed without prejudice at the request of both parties.)

Academic Professionals of California v. Trustees of the California State University, No. 1789-H/176:90
(The unfair practice charge was withdrawn and the appeal dismissed without prejudice at the request of both parties.)

Academic Professionals of California v. Trustees of the California State University, No. Ad-350-H/176:90
(Exceptions filed to the conclusion that the university failed to comply with ordered posting requirements were withdrawn and the appeal dismissed with prejudice at the request of both parties. No withdrawal of the ALJ decision was ordered.)

Academic Professionals of California v. Trustees of the California State University, No. 1842-H/179:89
(Because the parties were unable to agree on a meeting place, the university did not act in bad faith when negotiations on a policy change within the scope of representation did not occur.)

Aldern et al. v. UPTE, CWA Loc. 9119, No. 1792-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Bailey v. UPTE, CWA Local 9119, No. 1812-H/177:82
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Ball v. UPTE, CWA Loc. 9119, No. 1821-H/177:83
(The board affirmed the partial dismissal of the charges because unions are required only to have their expenses verified by an outside party, not to have a formal audit completed.)

Baratelli v. UPTE, CWA Loc. 9119, No. 1810-H/177:82
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Booth et al. v. UPTE, CWA Loc. 9119, No. 1831-H/178:86
(The charges were remanded to the general counsel for issuance of a complaint because the board agent did not have the authority to modify PERB regulations concerning the time period in which an agency fee hearing may be requested.)

Boylan v. UPTE, CWA Loc. 9119, No. 1797-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Brooks v. UPTE, CWA Loc. 9119, No. 1803-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

California Faculty Assn. v. Trustees of the California State University, No. 1823-H/177:84
(Because the supersession language added to HEERA established a minimum right to a final arbitration decision that the parties could not waive in their collective bargaining agreement, the university's insistence to impasse on a limitation on the arbitrator's authority interfered with employee rights and constituted a refusal to participate in the impasse procedures in good faith.)

California Faculty Assn. v. Trustees of the California State University, No. Ad-355-H/180:102
(Where a party makes a conscientious effort to timely file, and the delay in filing did not cause prejudice to any party, good cause may exist to excuse late filing.)

California State Employees Assn. v. California State University, No. 1839-H/179:87
(The university did not unilaterally change its contracting out policy or deny unit employees bargaining rights when it entered into an operating agreement with an auxiliary organization.)

California State University v. Trustees of the California State University, No. 1853-H/180:105
(Because the union failed to establish a nexus between the alleged adverse action and protected activity, the

claim was dismissed for failure to state a prima facie case.)

Carter et al. v. UPTE, CWA Loc. 9119, No. 1793-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Chanes et al. v. UPTE, CWA Loc. 9119, No. 1795-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Coalition of University Employees, Loc. 6 v. Regents of the University of California, San Francisco, No. Ad-353-H/179:88
(A clerical error leading to insufficient postage and subsequent delay in delivery is no excuse for filing a late appeal.)

Coalition of University Employees v. Regents of the University of California, No. 1843-H/179:89
(Where the charging party cannot demonstrate an employee engaged in a protected action or invoked the right to union representation, a claim of interference will not stand.)

Coalition of University Employees v. Regents of the University of California, No. 1851-H/180:103
(Because there was neither disparate treatment nor a nexus between the adverse action and protected activity, the claim was dismissed for failure to state a prima facie case.)

Coalition of University Employees, Loc. 6 v. Regents of the University of California; No. 1854-H/180:104
(Because the union posted flyers beyond the bargained-for area, the charge was dismissed for failure to state a prima facie case.)

Cooper v. UPTE, CWA Loc. 9119, No. 1799-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Crisosto v. UPTE, CWA Local 9119, No. 1811-H/177:82
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Gill et al. v. UPTE, CWA Loc. 9119, No. 1794-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Hawley et al. v. UPTE, CWA Loc. 9119, No. 1818-H/177:83
(The board affirmed the partial dismissal of the charges because unions are required only to have their expenses verified by an outside party, not to have a formal audit completed.)

Hermanson et al. v. UPTE, CWA Loc. 9119, No. 1829-H/178:85
(The charges were remanded to the general counsel for issuance of a complaint because the board agent did not have the authority to modify PERB regulations concerning the time period in which an agency hearing may be requested.)

Higgins v. Coalition of University Employees, No. 1855-H/180:104
(The charge was dismissed because there was no showing of a substantial impact on the relationship between the charging party and her employer.)

Jimenez-Newby v. UPTE, CWA Loc. 9119, No. 1819-H/177:83
(The board affirmed the partial dismissal of the charges because unions are required only to have their expenses verified by an outside party, not to have a formal audit completed.)

Joshel v. UPTE, CWA Loc. 9119, No. 1801-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Lee v. UPTE, CWA Loc. 9119, No. 1800-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Nickols et al. v. UPTE, CWA Loc. 9119, No. 1817-H/177:83
(The board affirmed the partial dismissal of the charges because unions are required only to have their expenses verified by an outside party, not to have a formal audit completed.)

Rock v. Regents of the University of California, No. 1804-H/177:81
(The unfair practice charge was dismissed as untimely.)

Sarca v. CSEA, No. 1813-H/177:82
(The charge was dismissed because the charging party had the opportunity to object and participate in the agency fee arbitration when he was a fee payer; he did not have standing to object to the agency fees when the union declined to accept them.)

Sarca v. California State University Employees Union, SEIU Loc. 2579, CSEA, No. Ad-351-H/178:84
(The complainant's petition to compel production of financial documents was dismissed because the union had produced the required documents.)

State Employees Trade Council United v. Regents of the University of California (San Diego), No. 1832-H/178:86
(The charge was dismissed because the charging party failed to establish that the increased transfer of work resulted in negotiable effects and because the charge was untimely.)

Trout et al. v. University Professional and Technical Employees, No. 1785-H/176:89
(The unfair practice charges were withdrawn at the request of the charging parties.)

Trout v. UPTE, CWA Loc. 9119, No. 1830-H/178:86
(The charge was remanded to the general counsel for issuance of a complaint because the information required by the board agent was neither relevant to the charge nor within the charging party's control.).

Van Sluis v. UPTE, CWA Loc. 9119, No. 1798-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Welch et al. v. UPTE, CWA Loc. 9119, No. 1796-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Widman v. UPTE, CWA Loc. 9119, No. 1802-H/176:90
(As agency fee payers, the charging parties have standing to file a charge, even though the union refunded the collected fees with interest.)

Yaron v. UPTE, CWA Loc. 9119, No. 1820-H/177:83
(The board affirmed the partial dismissal of the charges because unions are required only to have their expenses verified by an outside party, not to have a formal audit completed.)

MMBA Cases

Alameda County Probation Peace Officers Assn. v. County of Alameda, No. 1824-M/178:87
(The partial dismissal of the charge was remanded to the general counsel for further investigation.)

County of Inyo v. United Domestic Workers of America, No. 1783-M/176:91
(Based on the allegations in the charge, the county met its burden of showing the union failed to negotiate in good faith. Disputed facts are to be determined through the board hearing process.)

Health Services Agency Physicians Assn. v. County of Santa Cruz, No. 1840-M/179:91
(The two-week delay in affecting dues deductions for a newly elected exclusive representative was not unlawful interference or domination.)

Health Services Agency Physicians Assn. v. County of Santa Cruz, No. 1849-M/180:106
(The charge was dismissed for failure to state a prima facie case because the charging party could not demonstrate violation of the MMBA.)

Mauriello v. Bay Area Air Quality Management Dist., No. 1807-M/177:84
(The charge was dismissed because the only protected activity was the filing of the grievance at issue in the charge.)

Mauriello v. Bay Area Air Quality Management District Employees Assn., No. 1808-M/177:85
(A favorable arbitration award does not diminish or supplant the union's reasoned decision not to represent the charging party at the Skelly hearing or in grievance proceedings.)

Modic v. Sacramento Municipal Utility Dist., No. 1838-M/179:90
(The case was dismissed because the charging party failed to show good cause for untimely filing.)

Paez v. SEIU Loc. 790, No. Ad-356-M/180:106
(The appeal was dismissed as untimely filed.)

Siskiyou County Employees Assn. v. County of Siskiyou, No. 1837-M/179:90
(The California Supreme Court holding in *Coachella* overruling the three-year statute of limitations for MMBA unfair practice claims applies retroactively; consequently, the six-month statute of limitations period applicable to unfair practice claims renders the charge untimely.)

SEIU Loc. 399 v. Antelope Valley Health Care Dist., No. 1816-M/177:85
(An employer must grant recognition upon a showing of majority support following a card check; revocation of a prior authorization card must show the intent that the union no longer serve as the employee's representative.)

SEIU Loc. 535 v. County of Madera, No. 1809-M/177:85
(The unfair practice charge was dismissed at the request of the charging party.)

SEIU Loc. 1997 v. County of Riverside, No. 1825-M/178:88
(The charge was upheld because the board found that the parties' language applied retroactively and, therefore, the county had refused to honor the agreement.)

Stationary Engineers Loc. 39 v. City of Fresno, No. 1841-M/179:92
(An employer's right to free speech is protected under the MMBA absent a showing of coercion; a letter to, and survey of, employees was not direct bargaining or interference with representation; and, declaration of impasse was appropriate and did not indicate surface bargaining.)

Tacke v. IBEW Loc. 1245, No. 1857-M/180:109
(Because the charging party was not a member of the class he alleged was harmed, he did not have standing to bring a claim and the case was dismissed.)

Tacke v. Modesto Irrigation Dist., No. 1856-M/180:107
(Because the charging party was not a member of the class he alleged was harmed, he did not have standing to bring a claim and the case was dismissed.)

Welch v. California Teachers Assn. and Oakland Education Assn., No. 1850/180:108
(Because CTA had no duty to represent the charging party in a court of law, the charge was dismissed for failure to state a prima facie case.)

Trial Court Act Cases

Keiser v. Lake County Superior Court, No. 1782-C/176:92
(The unfair practice charge was dismissed because the board lacked jurisdiction over the due process violation raised under the Trial Court Employment Protection and Governance Act.)

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

No. 1782-C	Keiser v. Lake County Superior Court
No. 1783-M	County of Inyo v. United Domestic Workers of America
No. 1784-H	Abernathy et al. v. UPTE, CWA Loc. 9119
No. 1785-H	Trout et al. v. University Professional and Technical Employees
No. 1786	California School Employees Assn. and Its Chap. 549 v. Tamalpais UHSD
No. 1787	Thomas v. Los Angeles USD
No. 1788-H	Academic Professionals of California v. Trustees of the California State University
No. 1789	Academic Professionals of California v. Trustees of the California State University
No. 1790-S	Quigley v. Stationary Engineers Loc. 39
No. 1791	Kahn v. Los Angeles Unified School Dist.
No. 1792-H	Aldern et al. v. UPTE, CWA Loc. 9119
No. 1793-H	Carter et al. v. UPTE, CWA Loc. 9119
No. 1794-H	Gill et al. v. UPTE, CWA Loc. 9119
No. 1795-H	Chanes et al. v. UPTE, CWA Loc. 9119
No. 1796-H	Welch et al. v. UPTE, CWA Loc. 9119
No. 1797-H	Boylan v. UPTE, CWA Loc. 9119
No. 1798-H	Van Sluis v. UPTE, CWA Loc. 9119
No. 1799-H	Cooper v. UPTE, CWA Loc. 9119
No. 1800-H	Lee v. UPTE, CWA Loc. 9119
No. 1801-H	Joshel v. UPTE, CWA Loc. 9119
No. 1802-H	Widman v. UPTE, CWA Loc. 9119
No. 1803-H	Brooks v. UPTE, CWA Loc. 9119
No. 1804-H	Rock v. Regents of the University of California
No. 1805	Abner v. Compton Unified School Dist.
No. 1806-S	Horspool v. State of California [Dept. of Corrections]
No. 1807-M	Mauriello v. Bay Area Air Quality Management Dist.
No. 1808-M	Mauriello v. Bay Area Air Quality Management District Employees Assn.
No. 1809-M	SEIU Loc. 535 v. County of Madera
No. 1810-H	Baratelli v. UPTE, CWA Loc. 9119
No. 1811-H	Crisosto v. UPTE, CWA Local 9119
No. 1812-H	Bailey v. UPTE, CWA Local 9119
No. 1813-H	Sarca v. CSEA
No. 1814-S	Pittman v. CDF Firefighters
No. 1815-S	Pittman v. CDF Firefighters
No. 1816-M	SEIU Loc. 399 v. Antelope Valley Health Care Dist.
No. 1817-H	Nickols et al. v. UPTE, CWA Loc. 9119
No. 1818-H	Hawley et al. v. UPTE, CWA Loc. 9119
No. 1819-H	Jimenez-Newby v. UPTE, CWA Loc. 9119

No. 1820-H Yaron v. UPTE, CWA Loc. 9119

No. 1821-H Ball v. UPTE, CWA Loc. 9119

No. 1822 Santee Teachers Assn. v. Santee Elementary School Dist.

No. 1823-H California Faculty Assn. v. Trustees of the California State University

No. 1824-M Alameda County Probation Peace Officers Assn. v. County of Alameda

No. 1825-M SEIU, Loc. 1997 v. County of Riverside

No. 1826-S Zanchi v. State of California [Dept. of Corrections]

No. 1827 Los Angeles School Police Assn. v. Los Angeles Unified School Dist.

No. 1828 Casper v. Los Banos Unified School Dist.

No. 1829-H Hermanson et al. v. UPTE, CWA Loc. 9119

No. 1830-H Trout v. UPTE, CWA Loc. 9119

No. 1831-H Booth et al. v. UPTE, CWA Loc. 9119

No. 1832-H State Employees Trade Council United v. Regents of the University of California [San Diego]

No. 1833 Heggem v. Arcadia Teachers Assn.

No. 1834 Masskant v. Kern High Faculty Assn., CTA/NEA

No. 1835-S Kunkel v. State of California [Dept. of Transportation)

No. 1836-S California Attorneys, Administrative Law Judges & Hearing Officers in State Employment v. State of California [Dept. of Personnel Administration]

No. 1837-M Siskiyou County Employees Assn. v. County of Siskiyou

No. 1838-M Modic v. Sacramento Municipal Utility Dist.

No. 1839-H California State Employees Assn. v. California State University

No. 1840-M Health Services Agency Physicians Assn. v. County of Santa Cruz

No. 1841-M Stationary Engineers Loc. 39 v. City of Fresno

No. 1842-H Academic Professionals of California v. Trustees of the California State University

No. 1843-H Coalition of University Employees v. Regents of the University of California

No. 1844 Maaskant v. Kern High Faculty Assn., CTA/NEA

No. 1845 Cardoso v. Teamsters, Loc. 228

No. 1846-S Meenakshi v. Union of American Physicians and Dentists

No. 1847 Burlingame Elementary School Dist. v. California School Employees Assn.

No. 1848-S California Correctional Peace Officers Assn. v. State of California [Dept. of Corrections]

No. 1849-M Health Services Agency Physicians Assn. v. County of Santa Cruz

No. 1850 Welch v. California Teachers Assn. and Oakland Education Assn.

No. 1851-H Coalition of University Employees v. Regents of the University of California

No. 1852 Pitner v. Contra Costa Community College Dist.

No. 1853-H	California State University v. Trustees of the California State University
No. 1854-H	Coalition of University Employees, Loc. 6 v. Regents of the University of California;
No. 1855-H	Higgins v. Coalition of University Employees
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No. 1857-M	Tacke v. IBEW Loc. 1245
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No. 1859	Grossmont Union High School Dist. v. Grossmont Education Assn.
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No. 1861	West Hills Community College v. West Hills Faculty Assn.
No. 1862-S	Magner v. Dept. of Forestry and Fire Protection
No. Ad-350-H	Academic Professionals of California v. Trustees of the California State University
No. Ad-351-H	Sarca v. California State University Employees Union, SEIU Loc. 2579, CSEA
No. Ad-352	Jones v. SEIU Loc. 99
No. Ad-353-H	Coalition of University Employees, Loc. 6 v. Regents of the University of California, San Francisco
No. Ad-354	Newark Teachers Assn., CTA/NEA v. Newark Unified School Dist.
No. Ad-355-H	California Faculty Assn. v. Trustees of the California State University
No. Ad-356-M	Paez v. SEIU Loc. 790

PART IV

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