

Labor and Employment Intelligence for the Public Sector

cp er CALIFORNIA
PUBLIC
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RELATIONS
2007
INDEX

(Issues 182-187)

An annual index to
CPER Journal

Institute for Research on Labor and Employment
University of California Berkeley

2007 CPER INDEX

An index to the 2007 issues of

CALIFORNIA PUBLIC EMPLOYEE RELATIONS (CPER)

Issues 182-187

A service of the California Public Employee Relations Program

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HOW TO USE THE CPER ANNUAL INDEX

The 2007 issues of the *CPER* bimonthly periodical — No. 182 (February) through No. 187 (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. 186 is printed as **186:22**. 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 2007 issues of *CPER*. The official title of each case is followed by a brief statement of the court's holding, the official court citations, and the citation to *CPER* analysis of the decision.

Part III: Table of PERB Orders and Decisions

This table contains two sections.

Section A is an annotated table of all final rulings of the Public Employment Relations Board, whether abstracted in the *CPER* log of PERB rulings or featured in a news story. The table is presented in subdivisions reflecting the 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 Protection 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).

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PART II

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see **State of California ex rel. Pension Obligation Bond Committee v. All Persons Interested in the Matter of the Validity of the California Pension Obligations to be Issued**

Andersen v. Workers' Compensation Appeals Board and City of Santa Barbara

The city violated antidiscrimination provisions of workers' compensation law by requiring employees who sustain industrial injuries to use vacation leave when they obtain medical care for those injuries, while permitting workers who suffer non-industrial injuries to use sick leave for their medical appointments. Local governments and unions have the plenary power to provide sick leave, however, they may not create policies that discriminate against industrially injured employees.

(2007) 149 Cal.App.4th 1369/184:53

Antelope Valley Community College Dist.

see **McDonald v. Antelope Valley Community College Dist.**

Association for Los Angeles Deputy Sheriffs v. County of Los Angeles

To avoid paying a year-end cash-out payment, the county can force peace officers to use excess deferred vacation time. The officers did not enjoy an unconditional right to a cash payout because the county retained the right to order them to use the deferred hours by the end of the deferral year.

(2007) 154 Cal.App.4th 1536/186:35

Atwater Elementary School Dist. v. California Department of General Services

Education Code Sec. 44944(a) provides that credentialed teachers may be disciplined by a school district for certain behavior occurring less than four years prior to the filing of a notice of intent to discipline. The court determined that the four-year limitation period is subject to equitable principles and is, therefore, not absolute.

(2007) 41 Cal.4th 227/185:37

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Bakersfield City School Dist.

see **Bakersfield Elementary Teachers Assn. v. Bakersfield City School Dist.**

Bakersfield Elementary Teachers Assn. v. Bakersfield City School Dist

The district's policy of classifying teachers and counselors solely on the basis of their certification is invalid. A teacher's classification must be differentiated from his or her certification, and the district's policy of making the employee's classification dependent on his or her certification violated the Education Code. The district may classify as temporary employees "only those persons who, by virtue of the position they occupy or the manner of service they perform, are defined or described as temporary employees in the Education Code."

(2006) 145 Cal.App.4th 1260/182:41

Beck v. United Food and Commercial Workers Union, Loc. 99

The union breached its duty of fair representation and discriminated against her on the basis of sex when it failed to pursue grievances that were filed to challenge

disciplinary actions imposed for her use of profanity.
(2007) 506 F.3d 874/187:70

Benach v. County of Los Angeles

The Public Safety Officers Procedural Bill of Rights Act does not constrain a law enforcement agency from transferring an employee to compensate for his deficient performance. Based on evidence that the transfer was not punitive in nature and that the officer suffered no downgrade in rank or loss of pay, the reassignment did not trigger Bill of Rights Act protections.

(certified for publication 4-13-07) 149 Cal.App.4th 836/184:51

Berumen v. County of Los Angeles Department of Health Services

The county's reduction of an employee's work-related job responsibilities was not a demotion under the county civil service rules.

(2007) 152 Cal.App.4th 372/185:29

Bettencourt et al. v. City and County of San Francisco

Disciplinary charges against police officers were timely filed under the Public Safety Officers Procedural Bill of Rights Act because the limitations period was tolled during the pendency of a civil action where the officers all were named as defendants.

(2007) 146 Cal.App.4th 1090/182:42

Board of Trustees of the California State University

see **Ohton v. Board of Trustees of the California State University**

Board of Trustees of the California State University v. Public Employment Relations Board; California Faculty Assn.

Although academic employees at CSU are entitled to a final arbitration decision on grievances concerning appointment, reappointment, tenure, and promotion, the law does not set unlimited remedial authority as a minimum statutory right that cannot be superseded by a collective bargaining agreement. The opinion overturns *Trustees of the California State University* (2006) Dec. No. 1823-H, 177 CPER 45, in which PERB found the university had engaged in an unfair practice by insisting to impose on a proposal that limited the scope of the

arbitrator's authority.

(2007) 155 Cal.App.4th 866/187:45

Breslin et al. v. City and County of San Francisco

Disciplinary charges filed against four San Francisco police officers were untimely under the Public Safety Officers Procedural Bill of Rights Act because the matter did not involve a multi-jurisdictional or multiple-employee investigation.

(2007) 146 Cal.App.4th 1064/182:42

C

California Correctional Peace Officers Assn.

see **Department of Personnel Administration v. California Correctional Peace Officers Assn.**

California Department of Corrections v. California State Personnel Board

Contrary to *Alameida v. State Personnel Board* (2004) 120 Cal.App.4th 46, 167 CPER 61, which held that lying about alleged misconduct during an investigation "merged" with the underlying misconduct, state employees may be disciplined for dishonest denials of misconduct even if the state is barred by the statute of limitations from disciplining the employees for the conduct it was investigating.

(2007) 147 Cal.App.4th 797/183:57

California Department of General Services

see **Atwater Elementary School Dist. v. California Department of General Services**

California Faculty Assn.

see **Board of Trustees of the California State University v. Public Employment Relations Board; California Faculty Assn.**

California Portland Cement Co.

see **Faust v. California Portland Cement Co.**

California School Employees Assn. v. Livingston Union School Dist.

A school district employee was denied due process when his request for a hearing on his termination was denied

because it was made more than five days after the notice of his right to a hearing was mailed. Due process requirements must be based on an evaluation of the totality of the circumstances in each situation. Here, the notice was sent during summer vacation, when the teacher was not at work. Because in-person delivery was precluded, the school could not maintain that service was completed upon mailing.

(2007) 149 Cal.App.4th 391/184:40

California School Employees Assn. v. Tustin Unified School Dist.

Education Code Sec. 45196 permits a school district to deduct the salary of a temporarily disabled classified employee and use it to pay the substitute employee hired to fill the position. However, the district may not deduct the salary if the substitute is a currently employed, classified employee assigned to the absent employee's hours or tasks.

(2007) 148 Cal.App.4th 510/183:47

California State Personnel Board

see **California Department of Corrections v. California State Personnel Board**
Valenzuela v. California State Personnel Board (Dept. of Corrections and Rehabilitation)

California Teachers Assn. v. Vallejo City Unified School Dist.

Teachers serving under provisional credentials are probationary employees entitled to statutory rights to notice and a pre-termination hearing when dismissed for economic reasons.

(2007) 149 Cal.App.4th 135/184:42

Carter v. Escondido Union High School Dist.

The school district was permitted to terminate a probationary teacher who, while employed at another district, informed the athletic director that a football coach had recommended a nutritional supplement to a student. The termination was not wrongful because it did not violate any well-established public policy or law.

(2007) 148 Cal.App.4th 922/184:46

Chertoff

see **Poland v. Chertoff**

Chrisman v. City of Los Angeles

A police officer was improperly terminated for misusing his department computer because the board of rights based its decision on misconduct that occurred outside the two-year statute of limitations period. The board erroneously determined that the officer's actions were criminal in nature, and therefore subject to a three-year limitations period. While the officer's computer inquiries were not initiated for any legitimate job-related purpose, he still was acting within the scope of his employment.

(2007) 155 Cal.App.4th 29/186:39

City and County of San Francisco

see **Bettencourt et al. v. City and County of San Francisco**
Breslin et al. v. City and County of San Francisco

City and County of San Francisco v. International Union of Operating Engineers, Loc. 39

Section 3509 of the Meyers-Milias-Brown Act conveys to the Public Employment Relations Board exclusive jurisdiction to decide whether the exclusive representative of city employees is required to participate in the interest arbitration procedure authorized by the city charter.

(2007) 151 Cal.App.4th 938/185:24

City of Chula Vista Police Dept., RPI

see **Giovanni v. Superior Court of San Diego County; City of Chula Vista Police Dept., RPI**

City of Covina

see **Steinert v. City of Covina**

City of Los Angeles

see **Chrisman v. City of Los Angeles**
Moore v. City of Los Angeles

City of Rialto; County of San Bernardino, RPI

see **Rialto Police Benefit Assn. v. City of Rialto; County of San Bernardino, RPI**

City of Sacramento

see **Sacramento Police Officers Assn. v. City of Sacramento**

City of San Jose v. Operating Engineers Local Union No. 3

The superior court ruled that the city was required to seek injunctive relief from the Public Employment Relations Board for a planned strike. The city appealed that ruling to the Sixth District.

/187:28

Cloverdale Unified School Dist.

see **Gately v. Cloverdale Unified School Dist.**

Commission on Peace Officer Standards and Training v. Superior Court

Information in a state database containing officers' names, employing departments, and hiring and termination dates is subject to disclosure under the California Public Records Act.

(2007) 42 Cal.4th 278/187:21

Consulting Engineers and Land Surveyors of California v. Professional Engineers in California Government

An MOU provision designed to preserve the work of state engineers and architects violates Article XXII of the state Constitution, which exempts architectural and engineering services from the general civil service limitations on contracting out work performed by civil service employees. The legislature violated Article XXII when it approved the MOU between the state and PECCG.

(2007) 42 Cal.4th 578/187:55

Contra Costa Community College Dist.

see **Diablo Valley College Faculty Senate v. Contra Costa Community College Dist.**

Ortega v. Contra Costa Community College Dist.

County of Los Angeles

see **Association for Los Angeles Deputy Sheriffs v. County of Los Angeles**

Benach v. County of Los Angeles

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County of Los Angeles Department of Health Services

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County of Orange

see **Marcario v. County of Orange**

County of Riverside

see **Riverside Sheriff's Assn. v. County of Riverside**

County of Sacramento

see **Sacramento County Alliance of Law Enforcement v. County of Sacramento**

County of Santa Clara

see **Spielbauer v. County of Santa Clara**

County of Santa Clara v. Service Employees International Union Local 535

The superior ruled that the county was not required to seek injunctive relief from the Public Employment Relations Board, but was free to obtain an injunction from the court. SEIU appealed this ruling.

/187:28

Craig v. M&O Agencies, Inc.

The court overturned the lower court's dismissal of a complaint brought by an employee who had been sexually harassed by her direct supervisor. The employer's affirmative defense to an employee's sexual harassment charge failed because it could not show that the employee had "unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer."

(2007) 496 F.3d 1047/186:69

Davenport v. Washington Education Assn.

The court upheld a Washington state law that required public sector unions to obtain individual nonmembers' affirmative authorization to use their agency fees for political contributions. The union had no constitutional right to agency fees, and the "modest limitation" imposed by the state law did not violate the First Amendment.

(6-14-07) ___ U.S. ___, 127 S.Ct. 2372/185:21

Davis v. Los Angeles Unified School District Personnel Commission

A wrongfully demoted school district employee who was on disability leave for reasons unrelated to his employment is not entitled to full backpay or immediate reinstatement.

(2007) 152 Cal.App.4th 122/185:76

Davis v. O'Melveny & Myers

An arbitration agreement between a paralegal and her former employer was both procedurally and substantively unconscionable because the agreement was distributed to employees on a "take it or leave it" basis.
(2006) 485 F.3d 1066/185:80

Department of Personnel Administration v. California Correctional Peace Officers Assn.

Although an arbitrator had evidence that the MOU between DPA and CCPOA did not reflect the parties' intent, she exceeded her powers under the Dills Act when she rewrote the contract to incorporate the parties' intent. Since the act requires legislative approval of any terms requiring expenditure of funds, and the arbitrator's reformation of the contract had significant fiscal consequences, her award violated "the important public policy of legislative oversight of employee contracts."
(2007) 152 Cal.App.4th 1193/185:50.

Diablo Valley College Faculty Senate v. Contra Costa Community College Dist.

The president of a community college is not required to consult with the faculty before moving the management of academic divisions from faculty members to full-time professional administrators.
(2007) 148 Cal.App.4th 1023/184:35

Engquist v. Oregon Department of Agriculture

The class-of-one theory of equal protection is inapplicable to workplace decisions made by public employers.
(2007) 478 F.3d. 985/183:73

Escondido Union High School Dist.

see **Carter v. Escondido Union High School Dist.**

Faust v. California Portland Cement Co.

An employee who provided sufficient information to advise his employer of his need for leave under the California Family Rights Act was entitled to notice of his right to take such leave before being terminated.
(2007) 150 Cal.App.4th 864/185:67

Flippin v. Los Angeles City Board of Civil Service**Commissioners; Los Angeles City Department of Water and Power, RPI**

Due process principles do not prohibit a manager who initiated disciplinary action against an employee from presiding over that employee's *Skelly* hearing, especially when the employee is afforded a full evidentiary hearing before a neutral hearing examiner appointed by the civil service commission. And, where the weight of the evidence supported the charges levied against the employee, the trial court erred when it rejected the penalty of discharge that had been ordered by the commission.

(2007) 148 Cal.App.4th 272/183:34

Frank v. County of Los Angeles

Because the county had not erected racial barriers to deter minorities from applying for the position of county sheriff, there was no actionable disparate impact. The fact that most of the county police officers were minorities and paid less than the county sheriffs, who were mostly white, did not make the police officers a protected group, the court concluded.

(2007) 149 Cal.App.4th 805/184:79

Franklin v. The Monadnock Co.

Public policy precluded the employer from terminating an employee in retaliation for reporting physical threats against himself and other employees in the workplace. Public policy demands that the workplace be a crime-free and safe environment and that employees should be able to report threats of violence voiced by coworkers without fear of losing their jobs.

(2007) 151 Cal.App.4th 252/185:73

Gately v. Cloverdale Unified School Dist.

Under the Education Code, a classified employee becomes a senior management employee only when the school board so designates. Absent that designation, the district's business manager was not entitled to have her employment contract renewed.

(2007) 156 Cal.App.4th 487/187:38

Genest

see **Teachers' Retirement Board v. Genest**

Giovanni v. Superior Court of San Diego County; City of Chula Vista Police Dept., RPI

A minor's *Pitchess* motion seeking *in camera* review of arresting officers' confidential personnel records was properly denied because the requested discovery was irrelevant to the minor's defense that he had been improperly detained and searched. The officers had an objectively reasonable basis to place the minor in custody, and the *Pitchess* motion fell short of articulating how the officers' veracity would undermine the validity of the search and seizure.

(5-30-07, certified for publication 6-21-07) 152 Cal.App.4th 312/185:33

Goodyear Tire & Rubber Co.

see **Ledbetter v. Goodyear Tire & Rubber Co.**

Google, Inc.

see **Reid v. Google, Inc.**

Governing Board of the San Leandro Unified School Dist.

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

Green v. State of California

An employee claiming disability discrimination in violation of California's Fair Employment and Housing Act bears the burden of proving he is a "qualified individual with a disability" or capable of performing the essential functions of the job with or without reasonable accommodation. The legislature intended the FEHA to require the same burden of proof as the federal Americans with Disabilities Act.

(2007) 42 Cal.4th 254/186:62

Hall v. County of Los Angeles

The court found no discrimination in a class action case in which female attorneys hired by the county to represent juveniles claimed that they were being paid less than male attorneys doing the same work.

(2007) 148 Cal.App.4th 318/183:78

Hoschler v. Sacramento City Unified School Dist.

Under California Ed. Code Sec. 44929.21, when a school district with 250 or more students determines

not to reelect an employee on probationary status, it must notify the employee of its decision prior to March 15 by personal service or some other equivalent method. If it fails to do so, the employee is deemed reelected for the following school year. Although the statute does not specify the method for providing the required service, the presumption of personal service applies.

(2007) 149 Cal.App.4th 258/184:38

International Federation of Professional and Technical Engineers, Loc. 21 v. Superior Court

Names and salaries of public employees, including peace officers, are subject to disclosure and not protected under the California Public Records Act.

(2007) 42 Cal.4th 319/187:21

International Union of Operating Engineers, Loc. 39
see **City and County of San Francisco v. International Union of Operating Engineers, Loc. 39****Kempton**

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

Kenneth Cole Productions

see **Murphy v. Kenneth Cole Productions**

Kern County Employees Retirement Assn.

see **Pellerin v. Kern County Employees Retirement Assn.**

King v. United Parcel Service, Inc.

A discharged employee's complaint of disability discrimination and failure to provide reasonable accommodation in violation of California's Fair Employment and Housing Act was dismissed because the employee failed to provide sufficient evidence that he was terminated because of his disability. The court also dismissed the claim that the employer had failed to provide reasonable accommodation because the employee failed to specifically request a modified work schedule.

(2007) 152 Cal.App.4th 426/185:69

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

The San Diego County Civil Service Commission abused its discretion when it reduced the disciplinary action that had been imposed on a detention processing technician by the county sheriff. The commission singled out the technician's inaccurate evaluation rating without giving appropriate consideration to the considerable enumerated areas in which she was deficient and failed to give adequate weight to the sheriff's concerns for public safety.

(certified for publication 4-6-07) 149 Cal.App.4th 464/184:55

Ledbetter v. Goodyear Tire & Rubber Co.

Administrative complaints alleging pay discrimination must be filed within the charging period — 180 days after the last pay decision that demonstrated discriminatory intent, or within 300 days in states with agencies authorized to accept Title VII charges — not within 180 or 300 days of the issuance of the last paycheck that reflects the discriminatory activity. The court's majority rejected the theory, adopted by the Equal Employment Opportunity Commission, that each paycheck reflected the adverse effects of past discrimination and thus constituted a new violation. It explicitly refused to extend to claims of pay discrimination the rationale applied to hostile work environment claims in *National Railroad Passenger Corp. v. Morgan* (2002) 536 U.S. 101, 155 CPER 70.

(2007) 127 U.S. 2162/185:61

Livingston Union School Dist.

see **California School Employees Assn. v. Livingston Union School Dist.**

Los Angeles City Board of Civil Service Commissioners; Los Angeles City Department of Water and Power, RPI

see **Flippin v. Los Angeles City Board of Civil Service Commissioners; Los Angeles City Department of Water and Power, RPI**

Los Angeles City Fire Dept.

see **Malais v. Los Angeles City Fire Dept.**

Los Angeles Unified School Dist.

see **Morrow v. Los Angeles Unified School Dist.**

Los Angeles Unified School District Personnel Commission

see **Davis v. Los Angeles Unified School District Personnel Commission**

M&O Agencies, Inc.

see **Craig v. M&O Agencies, Inc.**

Malais v. Los Angeles City Fire Dept.

There was no disability discrimination where a disabled fire captain was refused the command of a fire station but offered other positions with comparable pay and promotion opportunities.

(2007) 150 Cal.App.4th 350/184:78

Marcario v. County of Orange

An Orange County employee who unsuccessfully challenged her reassignment and demotion before an arbitrator under the terms of an MOU is not barred from bringing statutory claims for workplace retaliation in violation of the Labor Code, intentional infliction of emotional distress, or violations of her federal civil rights. The arbitration of a labor grievance cannot have binding effect against an employee's statutory claims unless the agreement expressly so states. The statute of limitations applicable to her statutory claims are tolled during the time she pursued the internal grievance procedure.

(2007) 155 Cal.App.4th 397/187:36

McDonald v. Antelope Valley Community College Dist.

The doctrine of equitable tolling applies to the one-year statutory time limit for the filing of administrative complaints of discrimination under California's Fair Employment and Housing Act. The time for filing a claim with the Department of Fair Employment and Housing can, in the proper circumstance, be tolled while the complainant pursues internal remedies with her employer.

(2007) 151 Cal.App.4th 961/185:70

McDonald v. Antelope Valley Community College District

The California Supreme Court will decide whether equitable tolling applies to extend the one-year administrative filing requirement under the state's Fair Employment and Housing Act. The Court of Appeal determined the rule applied where a library technician's assistant did not file her FEHA complaint with the administrative agency within the one-year period but instead filed an internal complaint.

(2007) 151 Cal.App.4th 961; Supreme Court review granted 8-15-07, S153964/B188077/186:66

McKesson HBOC

see **Roby v. McKesson HBOC**

Mendoza v. State of California

The court struck down A.B. 1381, known as the Romero Act, which would have provided for a Council of Mayors to participate in the selection of the superintendent of the Los Angeles Unified School District and have an advisory role in determining the budget. It also would have given the mayor direct control over three high schools and their feeder schools through an entity called the Mayor's Partnership.

(2007) 149 Cal.App.4th 1034/184:30

Moore v. City of Los Angeles

A police officer unsuccessfully challenged his removal from the force because he failed to raise his statute of limitations defense before the board of rights. The court clarified that the officer could have invoked the trial court's initial jurisdiction to remedy a perceived violation of the Public Safety Officers Procedural Bill of Rights Act under Gov. Code Sec. 3309.5. But, having failed to take that action, the court concluded that the one-year statute of limitations defense could not be raised for the first time in a petition for a writ of administrative mandate under Code of Civil Procedure Sec. 1094.5 because there was no record on the timeliness issue for the court to review.

(2007) 156 Cal.App.4th 373/187:32

Morrow v. Los Angeles Unified School Dist.

The court dismissed a school principal's invasion of privacy and defamation claims based on statements made to the press about his performance. The challenged

statements were constitutionally protected and revealed no private information.

(2007) 149 Cal.App.4th 1424/184:87

Murphy v. Kenneth Cole Productions

An additional hour of pay awarded to compensate an employee for denied meal or rest periods is a premium wage subject to the three-year statute of limitations period, not a penalty subject to a one-year limitations period.

(2007) 40 Cal.4th 1094/184:85

Nevada Dept. of Human Resources

see **Walsh v. Nevada Dept. of Human Resources**

Ohton v. Board of Trustees of the California State University

A provision of the California Whistleblower Protection Act applicable only to the California State University allows a "remedy" if CSU does not "satisfactorily address" the employee's administrative complaint.

(2007) 148 Cal.App.4th 749, rehearing denied (4-10-07) D046617/184:66

O'Melveny & Myers

see **Davis v. O'Melveny & Myers**

Operating Engineers Local Union No. 3

see **City of San Jose v. Operating Engineers Local Union No. 3**

Opinion of Edmond G. Brown, Jr.

Under the Ralph M. Brown Act, a school superintendent may not prohibit an administrative employee of the district from attending or speaking at a public school board meeting. The A.G. determined that, under the Brown Act, Gov. Code Secs. 54950-54963, the superintendent could not prohibit the employee from either attending the board meeting or speaking on the agenda item.

Ops.Cal.Atty.Gen. No. 07-106 (7-20-07) 2007 DJDAR 11439/186:32

Oregon Department of Agriculture

see **Engquist v. Oregon Department of Agriculture**

Ortega v. Contra Costa Community College Dist.

A public employee is not required to exhaust internal grievance procedures created by a collective bargaining agreement culminating in arbitration prior to bringing a lawsuit alleging violations of the Fair Employment and Housing Act. The court distinguished the facts in this case from those in which courts have required administrative or judicial exhaustion.

(2007) 156 Cal.App.4th 1073/1878:65

Pellerin v. Kern County Employees Retirement Assn.

By operation of Gov. Code Sec. 31720.5, a firefighter who has completed more than five years of service and develops heart disease is entitled to a presumption that the medical condition arose out of and in the course of his employment. Therefore, absent evidence presented by the agency to rebut this presumption, he is entitled to disability retirement under Sec. 31720 as a matter of law.

(2006) 145 Cal.App.4th 1099/182:48

Poland v. Chertoff

Where it can be shown that a biased subordinate influenced or was involved in an investigation of an employee that results in an adverse employment action, the subordinate's animus may be imputed to the employer.

(2007) 494 F.3d 1174/186:66

Professional Engineers in California Government

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

Professional Engineers in California Government v. Kempton

The Supreme Court rejected PECG's attempt to limit the effect of Proposition 35. Passed by the voters in 2000, the proposition exempted architectural and engineering services from the California Constitution's restrictions on the use of private contractors for work performed by state civil service employees. The court held that several statutes governing Caltrans' use of private contractors were implicitly repealed by the proposition, but it also upheld contractor selection procedures that the agency had used prior to Prop. 35.

(2007) 40 Cal.4th 1016/184:59

Public Employment Relations Board; California Faculty Assn.

see **Board of Trustees of the California State University v. Public Employment Relations Board; California Faculty Assn.**

Regents of the University of California

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

Reid v. Google, Inc.

The court overturned the trial court's dismissal of a terminated employee's claim of age discrimination. Google maintained that the 54-year-old employee had been fired because his job had been eliminated. But the court found that ageist remarks, statistical evidence, the employee's demotion, and changed rationales for the termination together created a triable issue of fact that the company's explanation for the dismissal was pretextual.

(2007) 155 Cal.App.4th 1342/187:73

Rialto Police Benefit Assn. v. City of Rialto; County of San Bernardino, RPI

The city was required to meet and confer with the police benefit association before it entered into a contract with the county sheriff to provide law enforcement services. The court concluded that the Meyers-Milias-Brown Act required the city to bargain over the subcontracting decision itself because it was not a fundamental policy matter outside the bargaining obligation and because the implication of labor costs as a basis for the city's decision favors resolution within the collective bargaining framework.

(2007) 155 Cal.App.4th 1295/187:34

Riverside Sheriff's Assn. v. County of Riverside

The court awarded attorney's fees to the association where it was successful in enforcing its members' rights to representation under the Public Safety Officers Procedural Bill of Rights Act. The appellate court announced that Sec. 3309.5(e) of the Bill of Rights Act, which authorizes a civil penalty of up to \$25,000 and attorney's fees for malicious violations of the act, does not foreclose an award of attorney's fees under Code of Civil Procedure Sec. 1021.5 when a party has secured an important right of public interest.

(2007) 152 Cal. App.4th 414/185:27

Roby v. McKesson HBOC

The court overruled a jury's finding of hostile work environment and harassment under the Fair Employment and Housing Act. There was insufficient evidence to support the verdict on the harassment cause of action and the award of \$1.1 million in non-economic damages, and millions more in punitive damages. The court upheld the jury's verdict for the plaintiff on other causes of action but modified the damages award.

(2006) 146 Cal.App.4th 63/182:68

Sacramento City Unified School Dist.

see **Hoschler v. Sacramento City Unified School Dist.**

Sacramento County Alliance of Law Enforcement v. County Sacramento

The Sacramento County Civil Service Commission had authority to hear an administrative appeal contesting a temporary civil service appointment. However, there was no merit to the claim that a civil service employee had been improperly passed over for two temporary work assignments.

(2007) 151 Cal.App.4th 1012/185:35

Sacramento Police Officers Assn. v. City of Sacramento

The California Supreme Court depublished the appellate court ruling that the decision of the city police department to hire retirees as temporary officers to address a staffing shortage was a fundamental policy decision designed to maintain the existing level of public safety in the community. Relying on *Claremont Police Officers Assn. v. City of Claremont* (2006) 39 Cal.4th 623, 180 CPER 21, the Court of Appeal had held that the city's interest in unfettered decisionmaking was not outweighed by the benefit gained in subjecting the matter to the bargaining process.

/185:32

Sacramento Police Officers Assn. v. City of Sacramento

The proposal of the City of Sacramento Police Department to hire retirees as temporary, non-career employees to remedy a short-term staffing shortage was a fundamental managerial policy decision designed to maintain the existing level of public safety in the community. As such, it was not subject to the city's duty to meet and confer with the Sacramento Police Officers

Association, even if the proposal represented a change in the terms and conditions of employment. Because implementation of the plan was not intended to affect employment terms, details of the plan were not subject to the duty to meet and confer imposed by the Meyers-Milias-Brown Act.

(2007) 147 Cal.App.4th 311/183:28

San Diego County Civil Service Commission; Gant, RPI

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

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

Education Code Sec. 7054 prohibits teachers unions from distributing materials with political endorsements to school mailboxes. In so ruling, the appellate court overruled the trial court's decision and rehabilitated the Public Employment Relations Board's interpretation of the statute.

(2007) 154 Cal.App.4th 866/186:28

San Francisco Community College Dist.

see **Womack v. San Francisco Community College Dist.**

Sarka v. Regents of the University of California

A doctor employed at the University of California at Los Angeles student health center was discharged for insubordination, not because he was advocating for medically appropriate health care for his patients. The university did not violate Business and Professions Code Sec. 2056.

(2006) 146 Cal.App.4th 261/182:73

Service Employees International Union Local 535

see **County of Santa Clara v. Service Employees International Union Local 535**

Spielbauer v. County of Santa Clara

A public agency cannot penalize one of its employees for refusing to answer incriminating questions unless the employer first grants or offers the employee immunity. The Fifth Amendment constitutional privilege against compelled self-incrimination allows

a public employee to rightfully refuse to answer questions posed by his superiors unless the employer first grants the employee protection against the use of the compelled answers in any later criminal prosecution.

(2007) 146 Cal.App.4th 914/182:27; review granted 5-9-07

State of California

see **Green v. State of California**

Mendoza v. State of California

State of California ex rel. Pension Obligation Bond Committee v. All Persons Interested in the Matter of the Validity of the California Pension Obligations to be Issued

The Pension Obligation Bond Committee could not persuade the court to validate its proposal to sell up to \$960 million in bonds to fund the state's contributions to the Public Employees Retirement System. Freeing up money by financing contributions to pension funds was found unconstitutional.

(2007) 152 Cal.App.4th 1386/186:72

Steinert v. City of Covina

A conversation between a police officer and her commanding officer was a routine counseling session, not an interrogation leading to punitive action, and did not trigger the procedural protections conveyed by the Public Safety Officers Procedural Bill of Rights Act. At the time of the discussion, the sergeant had no intention of imposing any discipline on the officer and saw the exchange only as a training opportunity.

(10-11-06; publication ordered by Supreme Court 1-3-07) 146 Cal.App.4th 458/182:46

Superior Court

see **Commission on Peace Officer Standards and Training v. Superior Court**

Giovanni v. Superior Court of San Diego County; City of Chula Vista Police Dept., RPI

International Federation of Professional and Technical Engineers, Loc. 21 v. Superior Court

State Board of Chiropractic Examiners v. Superior Court (Arbuckle)

Teachers' Retirement Board v. Genest

The Teachers' Retirement Board successfully challenged the state's deferral of \$500 million it owed to the Supplemental Benefit Maintenance Account of the Teachers' Retirement Fund. Freeing up money by delaying contributions to pension funds was found unconstitutional.

(2007) 154 Cal.App.4th 1012/186:72

The Monadnock Co.

see **Franklin v. The Monadnock Co.**

Tustin Unified School Dist.

see **CSEA v. Tustin Unified School Dist.**

United Food and Commercial Workers Union, Loc. 99

see **Beck v. United Food and Commercial Workers Union, Loc. 99**

U.S. Marshals Service

see **Walton v. U.S. Marshals Service**

Valenzuela v. California State Personnel Board (Dept. of Corrections and Rehabilitation)

The State Personnel Board abused its discretion when it upheld the termination of a correctional officer who failed a drug test after taking diet pills prescribed by a Mexican doctor. There was insufficient evidence that the Department of Corrections and Rehabilitation warned the officer not to take the medication because it could result in a positive drug test.

(2007) 153 Cal.App.4th 1179/186:51

Vallejo City Unified School Dist.

see **California Teachers Assn. v. Vallejo City Unified School Dist.**

Walsh v. Nevada Dept. of Human Resources

State and individual defendants are immune from liability for money damages for claims of employment discrimination under the Americans with Disabilities Act. The plaintiff did not have standing to request injunctive relief because she had left her employment and did not plan to return to the job.

(2006) 471 F.3d 1033/182:66

Walton v. U.S. Marshals Service

A court security officer who was terminated because of a “significant” hearing impairment was not disabled within the meaning of the Rehabilitation Act of 1973. “In order to state a ‘regarded as’ claim a plaintiff must establish that the employer believes that the plaintiff has some impairment, and provide evidence that the employer subjectively believes that the plaintiff is substantially limited in a major life activity.”

(9th Cir. 2007) 476 F.3d 723/183:71

Washington Education Assn.

see **Davenport v. Washington Education Assn.**

Workers’ Compensation Appeals Board and City of Santa Barbara

see **Andersen v. Workers’ Compensation Appeals Board and City of Santa Barbara**

PART III

TABLE OF PERB ORDERS AND DECISIONS

Section A: Annotated Table of PERB Orders and Decisions

Dills Act Cases

AFSCME Loc. 2620 v. Department of Personnel Administration, No. Ad-359-S/183:91

(The request to disqualify an ALJ from presiding over an administrative hearing was denied because it would not effectuate the purpose of the act.)

Burnett v. SEIU Loc. 1000, CSEA, No. 1914-S/186:92

(The union did not breach its duty of fair representation by failing to file an unfair practice charge on the charging party's behalf or by failing to inform him of the status of his grievance arbitration request.)

Dinkins v. SEIU Loc. 1000, CSEA, No. 1901-S/185:94

(The union's insistence that an employee resign as a union member in order to attain religious objector status does not violate the act.)

Horspool v. State of California [Dept. of Corrections and Rehabilitation], No. 1923-S/187:88

(The charging party's unfair practice charge was dismissed because all the underlying incidents occurred more than six months before the charge was filed, and Dills Act Sec. 3514.5(a)(1) prohibits PERB from issuing a complaint with respect to any charge based on alleged conduct that occurred more than six months prior to the filing of the charge.)

International Union of Operating Engineers v. State Personnel Board, No. 1864-S/182:87

(SPB is subject to Dills Act Sec. 3519 and cannot interfere with an employee's exercise of rights under the act. SPB's

adjudicatory authority does not insulate it from PERB review for the limited purpose of deciding an unfair practice dispute. However, because the act does not provide the right to submit settlement agreements to SPB through an unconstitutional MOU procedure, IUOE failed to establish a prima facie case of interference.)

Menaster v. Union of American Physicians & Dentists, No. 1918-S/186:93

(The union did not breach its duty of fair representation by failing to represent the charging party at an unemployment hearing because the duty does not exist in extra-contractual proceedings. Advising the charging party to resign instead of filing grievances alleging retaliatory conduct by the employer was not without rational basis or honest judgment.)

EERA Cases

Associated Administrators of Los Angeles v. Los Angeles Unified School Dist., No. 1884/183:97

(The district violated EERA when it refused to bargain with the association regarding employees whom the board had previously determined to be bargaining unit members.)

Benton v. Oakland Unified School Dist., No. 1902/185:94

(Because the charging party alleged only that his hours were reduced and that he was reprimanded for his

involvement in heated verbal confrontations with other employees, the charge was dismissed for failure to state a prima facie case.)

Burlingame Elementary School Dist. v. CSEA, Order No. JR-24/183:98

(Because the district did not present a unique issue of special importance, the board denied its request for judicial review.)

California School Employees Assn. and its Chap. 77 v. Lodi Unified School Dist., No. 1893/184:102

(Although a district custodian engaged in protected activity, the evidence failed to demonstrate that district administrators made decisions affecting his employment because of that conduct.)

California School Employers Assn. and its Chap. 169 v. Madera Unified School Dist., No. 1907/185:96

(The district's change in contribution levels toward current and retired employees' health care benefits was not an unfair practice because the new levels were consistent with the terms of the collective bargaining agreement and past practice.)

California School Employees Assn. and its Chap. 407 v. Desert Community College Dist., No. 1921/186:97

(The district impermissibly interfered with the employees' and association's rights by threatening discipline or criminal prosecution for participants at a members-only on-campus meeting where an upcoming board of trustees election was to be discussed. Ed. Code Sec. 7054 prohibits the use of district funds, services, supplies, or equipment for the purpose of urging the support or defeat of any ballot measure or candidate, but does not apply to the use of district premises.)

California School Employees Assn., Chaps. 759, 724, and 788 v. San Diego Unified School Dist., No. 1883/183:94

(The district acted unlawfully when it failed to implement a two-tier leave accrual system without providing the union notice or an opportunity to negotiate.)

Delano Elementary Teachers Assn. v. Delano Union Elementary School Dist., No. 1908/185:97

(Because the association failed to establish an unstable collective bargaining relationship, four allegations asserting unilateral policy changes were deferred to arbitration.)

Delano Union Elementary School Dist. v. Delano Elementary Teachers Assn., No. 1925/187:91

(The board found that allowing the charging party to withdraw its charge was in the best interests of the party and consistent with the purposes of the act.)

East Whittier City Elementary School Dist. v. East Whittier Administrators and Supervisors Assn., No. 1887/183:98

(Because it was in the best interest of the parties and consistent with the purpose of EERA, the board granted the parties' request to vacate a proposed board agent decision.)

El Centro Elementary Teachers Assn. v. El Centro Elementary School Dist., No. 1863/182:87

(The board lacks jurisdiction to issue an unfair practice complaint challenging a unilateral mid-term modification of a contract provision that is a permissive subject of bargaining.)

Estacio v. Modesto City School Dist., No. 1873/182:89

(Because it was untimely filed and did not state a prima facie case, the charge was dismissed.)

Estacio et al. v. California School Employees Assn., Chap. 007, No. 1874/182:90

(Because it was untimely filed and did not state a prima facie case, the charge was dismissed.)

Gillead v. San Francisco Unified School Dist., No. Ad-360/184:105

(The charging party's appeal was untimely filed.)

Gillead v. United Educators of San Francisco, No. 1897/184:105

(The union's decision to consolidate the charging party's individual grievance with a class action grievance contesting the same employer policies did not breach the duty of fair representation.)

Gutierrez v. SEIU Loc. 99, No. 1899/185:100

(PERB is prohibited from issuing an unfair practice complaint with respect to any charge based on an alleged unfair practice occurring more than six months prior to the filing of the charge.)

Hesperia Education Assn., CTA/NEA v. Hesperia Unified School Dist., No. 1875/182:89

(The request to withdraw exceptions to the ALJ's proposed decision was granted.)

Jones v. SEIU, Loc. 99, No. 1882/183:100

(The charging party failed to present evidence that SEIU acted without rational basis or honest judgment, and the duty of fair representation charge was dismissed.)

King City High School Teachers Assn., CTA/NEA v. King City Joint Union High School Dist., No. 1777a/183:99

(Because the parties later discovered that the cost of complying with the board's order could bankrupt the school district, and because the parties reached a fair remedy to address the situation, the board granted the modification request.)

Maaskant v. Kern High Faculty Assn., CTA/NEA, No. 1885/183:97

(The charge alleging that the charging party was denied the opportunity to serve as a member of the association's representative council is an internal union affair into which PERB will not interfere unless there is an impact on the employer-employee relationship. Because no impact was shown, the charge was dismissed.)

Mandell v. San Leandro Unified School Dist., No. 1924/187:90

(The charging party failed to demonstrate that his employment was terminated by the district in response to his protected activity. Instead, the district fired the charging party because it believed that he lacked the teaching credentials required for his employment.)

Mandell v. San Leandro Unified School Dist., No. Ad-366/186:97

(The charging party's discovery of language in an R.A.'s dismissal letter that caused him "serious concern" does not warrant a finding of good cause to excuse the untimely filing of his appeal.)

Newark Teachers Assn., CTA/NEA v. Newark Unified School Dist.; Newark Unified School Dist. v. Newark Teachers Assn., CTA/NEA, No. 1895/184:104

(The district failed to meet and negotiate in good faith when during reopener negotiations, it refused to bargain over the selection of a health insurance carrier.)

Oakland Education Assn. v. Oakland Unified School Dist., No. 1880/183:93

(The district's decision not to reelect a teacher was motivated by his protected activities; the district would not have made that choice but for his protected conduct. However, the district placed the teacher on administrative leave based on reasonable concerns about school safety.)

Okereke v. United Teachers of Los Angeles, No. 1888/183:101

(Because the union's actions were not arbitrary, discriminatory, or in bad faith, it did not breach its duty of fair representation and the charge was dismissed.)

Pina v. Public Employees Union, Loc. 1, No. 1872/182:90

(Because the charging party failed to provide sufficient factual detail to state a prima facie case, the charge was dismissed.)

Riverdale Teachers Assn., CTA/NEA v. Riverdale Joint Unified School Dist., No. 1878/183:91

(The board granted the district's request to withdraw its exceptions and the association's request to withdraw its unfair practice charge with prejudice.)

Santa Clara Unified School Dist. v. California Federation of Teachers; United Teachers of Santa Clara, CTA/NEA, No. 1911/186:101

(The union's petition for recognition of an adult education teachers unit was granted because the teachers had a separate and distinct community of interest, and the board upheld an interpretation of EERA that allowed teachers from the same district to be a part of different unions.)

Ulmschneider v. Los Banos Teachers Assn., No. 1922/187:93

(The association did not breach its duty of fair representation where its decision not to pursue the charging party's grievance to arbitration was not arbitrary, discriminatory, or in bad faith.)

Victor Valley College Faculty Assn., CTA/NEA v. Victor Valley Community College Dist., No. Ad-357/182:87

(Because the parties mutually reached a settlement, the board granted the association's request to withdraw its unfair practice charge and vacate the decision issued by the ALJ.)

Wyman v. California School Employees Assn. and its Chap. 374, No. 1903/185:100

(The association's failure to obtain the charging party's signature and approval of a grievance, the untimely filing of a grievance, and the failure to schedule an informal conference did not breach the duty of fair representation.)

HEERA Cases

AFSCME, Loc. 3299 v. University of California, No. 1869-H/182:93

(Because the parties settled their dispute, the board granted the parties' request for withdrawal.)

Ball v. UTPE, CWA Loc. 9119, No. 1821a-H/183:104

(Because the motion to vacate was premised solely on a settlement agreement between the parties, the motion was denied. The motion to dismiss as moot was granted.)

California State Employees Assn., CSU Div., and California Faculty Assn. v. California State University, No. 1876-H/182:94

(The university violated HEERA when it consulted an outside task force regarding matters within the scope of bargaining and when it failed to provide the union with requested information pertaining to a mandatory subject of bargaining. However, CSU had no obligation to bargain over the location of a parking structure.)

California State University v. Academic Professionals of California and California State Employees Assn., No. 1881-H/183:102

(Proper bargaining unit placement of a new classification requires additional evidence relevant to the criteria set forth in Sec. 3579 to determine appropriate units under HEERA.)

California State University v. California State University Employees Union and State Employees Trades Council-United, No. Ad-358-H/182:96

(Because the union withdrew its appeal, the board granted the withdrawal.)

California State University Employees Union v. California State University, No. 1886-H/183:104

(The university's grant of released time to attend PERB informal conferences was the result of confusion about university policy and following improper procedures, and only occurred seven times. This did not establish a past practice, and the unilateral change charge was dismissed.)

Chemello v. California State University [Humboldt], No. 1866-H/182:92

(The charge was dismissed because the employee untimely filed the unfair practice charge, lacked standing to file the charge, and failed to provide sufficient evidence to support a prima facie case.)

Chemello v. State Employees Trades Council United, No. 1867-H/182:96

(Because the charge was not timely filed, and because the charging party was not entitled to union representation, the charge was dismissed.)

Coalition of University Employees, Loc. 6 v. University of California, No. 1870-H/182:93

(Because the union requested information pertaining to employees outside of its bargaining unit, the university did not violate HEERA when it refused to provide the requested information.)

Davis et al. v. UTPE, CWA Loc. 9119, No. 1817a-H/183:103

(Because the motion to vacate was premised solely on a settlement agreement between the parties, the motion was denied. The motion to dismiss as moot was granted.)

Hawley v. UTPE, CWA Loc. 919, No. 1818a-H/183:104

(Because the motion to vacate was premised solely on a settlement agreement between the parties, the motion was denied. The motion to dismiss as moot was granted.)

Jimenez-Newby v. UTPE, CWA Loc. 9119, No. 1819a-H/183:104

(Because the motion to vacate was premised solely on a settlement agreement between the parties, the motion was denied. The motion to dismiss as moot was granted.)

State Employees Trades Council United v. Regents of the University of California, No. 1912-H/186:103

(The university's failure to recognize the charging party as the exclusive representative of a skilled crafts unit did not violate HEERA, and the allegation concerning the mistaken deduction of union dues from employees in the proposed unit was untimely filed.)

Statewide University Police Assn. v. California State University, No. 1871-H/182:93

(Because the condition placed on bargaining was within the parties' control, and because the university's communication with employees did not evidence a campaign to disparage the union, the case was dismissed.)

Wunder v. California Faculty Assn., No. 1889-H/183:105

(An association may decline to pursue arbitration unless the decision is arbitrary or discriminatory, or made in bad faith. Because the association made its decision in good faith and with a reasonable basis, the charge was dismissed.)

Yaron v. UTPE, CWA Loc. 9119, No. 1820a-H/183:104

(Because the motion to vacate was premised solely on a settlement agreement between the parties, the motion was denied. The motion to dismiss as moot was granted.)

MMBA Cases

Buck v. Amalgamated Transit Union, Loc. 1704, No. 1898-M/184:110

(The union breached its duty of fair representation by failing to file a timely grievance challenging an employee's termination where its failure to do so completely extinguished the employee's right to pursue his grievance.)

Chan v. SEIU Loc. 790, No. 1892-M/184:109

(The allegations did not demonstrate that the union's failure to seek arbitration concerning the charging party's termination was arbitrary, discriminatory, or motivated by bad faith.)

City of Glendale v. International Brotherhood of Electrical Workers, Loc. 18, No. Ad-361-M/185:107

(The union's petition seeking severance of craft employees was dismissed because the union failed to prove that the city's unit determination decision was unreasonable.)

Health Care Workers Union Loc. 250 v. Sutter County In-Home Supportive Services Public Authority, No. 1900-M/185:101

(The decision to implement a criminal background check is a fundamental managerial policy outside the scope of bargaining, as are the effects of that decision, which are integral to the policy and primarily related to public safety. Effects that relate to traditional terms and conditions of employment are subject to the duty to bargain.)

International Brotherhood of Electrical Workers, Loc. Union 465 v. San Diego Trolley, Inc., No. 1909-M/186:104

(The board has no jurisdiction over the union's unfair practice charge because the transit district operates under a separate statutory scheme and is not subject to the MMBA.)

Jurupa Community Services District Employees Assn. v. Jurupa Community Services Dist., No. 1920-M/186:109

(The charging party established that the district engaged in retaliation by terminating him shortly after he filed a grievance. The district failed to prove that it would have terminated the grievant if he had not done so.)

Keymolent v. City of Santa Clarita, No. 1865-M/182:97

(Because PERB lacks jurisdiction over private employees, the charge filed by a private transit worker was dismissed.)

Langlois-Dul v. SEIU Loc. 715, No. 1917-M/186:114

(Because the board agent incorrectly addressed the warning letter informing the charging party that she had 10 days to amend her charge, the board vacated the dismissal, remanded the case, and ordered the general counsel to reissue the warning letter with the proper address.)

Operating Engineers Loc. 3 v. City of Porterville, No. 1905-M/185:102

(The city did not unlawfully interfere with the union's right to access employees because the union representative never obtained the consent of the department head to enter the employees' work location, as is required by the city access policy.)

Operating Engineers Loc. 3 v. County of Sierra, No. 1915-M/186:108

(The union's failure to respond to the county's request for clarification regarding its documentation request precluded a finding of bad faith bargaining. The county did not violate the act by conditioning the negotiation of economic matters on the resolution of non-economic matters because both the economic and non-economic issues were within the scope of bargaining.)

Operating Engineers Loc. 3 v. Town of Paradise, No. 1906-M/185:105

(The town violated its memorandum of understanding and duty to bargain in good faith with the union by refusing to provide information regarding its on-call employee policy.)

Operating Engineers Loc. 3 v. Town of Paradise, No. Ad-364-M/185:107

(The union's administrative appeal challenging the determination that its opposition to the charging party's exceptions was untimely is moot because the board has already affirmed the ALJ's proposed decision regarding the underlying charge.)

- Seeley v. County of Santa Clara, No. 1877-M/183:107**
(Absent evidence that an investigatory interview was conducted or that the charging party was discriminated against, the charge was dismissed.)
- SEIU, Loc. 660 v. Orange County, No. 1868-M/182:97**
(Because the existence of an unreasonable local rule does not establish a continuing violation, and because the charging party's harm occurred outside the statutory period for an unfair practice charge, the claim was dismissed as untimely.)
- Siskiyou County Employees Assn./AFSCME Loc. 3899 v. County of Siskiyou, No. 1894-M/184:107**
(The association did not establish that the county unilaterally altered employment terms when it failed to implement layoffs on a countywide basis.)
- Stationary Engineers Loc. 39 v. City and County of San Francisco, No. 1890-M/184:106**
(The city charter provision authorizing arbitration of bargaining impasses is not an unreasonable local rule, and the union's assertions of bad faith bargaining failed to state a prima facie case of surface bargaining.)
- Teamsters Loc. 350 v. City of Los Altos, No. 1891-M/184:107**
(Absent a request for information from the union, there is no basis for the charge that the city interfered with the union's right to represent bargaining unit employees by failing to provide information concerning employee discipline.)
- Teamsters Loc. 381 v. City of Lompoc, No. 1879-M/183:107**
(Because it would effectuate the purpose of the MMBA, the board granted the request for withdrawal of the charge.)
- Teamsters Loc. 542 v. County of Imperial; California School Employees Assn. and its Imperial County Employees Chap. 2004, No. 1916-M/186:113**
(A local county rule violated MMBA Sec. 3507.1 when it stipulated that in order for a representation election to be valid, a majority of eligible voters in each bargaining unit must vote. The MMBA requires only that a majority of those voting elect the exclusive representative.)
- Tesfasion v. City of Beverly Hills (Transportation Dept.), No. 1913-M/186:107**
(The unfair practice charge was dismissed because the charging party was not an employee, employer, or employee organization under PERB Reg. 32602.)
- Tesfasion v. City of Beverly Hills (Transportation Dept.), No. Ad-363-M/185:106**
(The charging party's untimely filing of his appeal of the dismissal of his unfair practice charge was excused because there was good cause for the late filing.)
- Treas v. Inlandboatmans Union of the Pacific, No. 1919-M/186:115**
(The charging party's allegation that the union breached its duty of fair representation was dismissed because the charging party failed to provide any facts regarding his contact with the union, thereby failing to establish abuse of discretion or dishonest judgment.)
- Turlock Irrigation District Technical Employees Assn. v. Turlock Irrigation Dist., No. 1896-M/184:108**
(The district's employee relations officer complied with local rules and the MMBA when he offered to consult with the association following rejection of the association's representation petition.)
- Ventura County Professional Peace Officers Assn. v. City of Ventura, No. 1910-M/186:106**
(The association's unfair practice charge was dismissed in part because the contract between it and the county authorized the county to unilaterally implement a mandatory overtime program to meet public necessity.)
- Vorgias v. State Bar of California, No. 1904-M/185:102**
(The unfair practice charge alleging wrongful termination was filed more than six months after the date of the charging party's termination and was not tolled while her action was pending in federal court.)
- Vorgias v. State Bar of California, No. Ad-362-M/185:103**
(The State Bar's administrative appeal challenging the determination that its opposition to the charging party's appeal was untimely is moot because the board already had affirmed the dismissal of the charge.)
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- Trial Court Act Cases***
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- 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. 1777a	King City High School Teachers Assn., CTA/NEA v. King City Joint Union High School Dist.	No. 1872	Pina v. Public Employees Union, Loc. 1
		No. 1873	Estacio v. Modesto City School Dist.
No. 1817a-H	Davis et al. v. UTPE, CWA Loc. 9119	No. 1874	Estacio et al. v. California School Employees Assn., Chap. 007
No. 1818a-H	Hawley v. UTPE, CWA Loc. 919	No. 1875	Hesperia Education Assn., CTA/NEA v. Hesperia Unified School Dist.
No. 1819a-H	Jimenez-Newby v. UTPE, CWA Loc. 9119	No. 1876-H	California State Employees Assn., CSU Div., and California Faculty Assn. v. California State University
No. 1820a-H	Yaron v. UTPE, CWA Loc. 9119	No. 1877-M	Seeley v. County of Santa Clara
No. 1821a-H	Ball v. UTPE, CWA Loc. 9119	No. 1878	Riverdale Teachers Assn., CTA/NEA v. Riverdale Joint Unified School Dist.
No. 1863	El Centro Elem. Teachers Assn. v. El Centro Elem. School Dist.	No. 1879-M	Teamsters Loc. 381 v. City of Lompoc
No. 1864-S	International Union of Operating Engineers v. State Personnel Board	No. 1880	Oakland Education Assn. v. Oakland Unified School Dist.
No. 1865-M	Keymolent v. City of Santa Clarita	No. 1881-H	California State University v. Academic Professionals of California and California State Employees Assn.
No. 1866-H	Chemello v. California State University (Humboldt)	No. 1882	Jones v. SEIU, Loc. 99
No. 1867-H	Chemello v. State Employees Trades Council United	No. 1883	California School Employees Assn., Chaps. 759, 724, and 788 v. San Diego Unified School Dist.
No. 1868-M	SEIU Loc. 660 v. Orange County	No. 1884	Associated Administrators of Los Angeles v. Los Angeles Unified School Dist.
No. 1869-H	AFSCME, Loc. 3299 v. University of California	No. 1885	Maaskant v. Kern High Faculty Assn., CTA/NEA
No. 1870-H	Coalition of University Employees, Loc. 6 v. University of California		
No. 1871-H	Statewide University Police Assn. v. California State University		

No. 1886-H	California State University Employees Union v. California State University	No. 1901-S	Dinkins v. SEIU Loc. 1000, CSEA
No. 1887	East Whittier City Elem. School Dist. v. East Whittier Administrators and Supervisors Assn.	No. 1902	Benton v. Oakland Unified School Dist.
No. 1888	Okereke v. United Teachers of Los Angeles	No. 1903	Wyman v. California School Employees Assn. and its Chap. 374
No. 1889-H	Wunder v. California Faculty Assn.	No. 1904-M	Vorgias v. State Bar of California
No. 1890-M	Stationary Engineers Loc. 39 v. City and County of San Francisco	No. 1905-M	Operating Engineers Loc. 3 v. City of Porterville
No. 1891-M	Teamsters Loc. 350 v. City of Los Altos	No. 1906-M	Operating Engineers Loc. 3 v. Town of Paradise
No. 1892-M	Chan v. SEIU Loc. 790	No. 1907	California School Employers Assn. and its Chap. 169 v. Madera Unified School Dist.
No. 1893	California School Employees Assn. and its Local Chap. 77 v. Lodi Unified School Dist.	No. 1908	Delano Elementary Teachers Assn. v. Delano Union Elementary School Dist.
No. 1894-M	Siskiyou County Employees Assn./AFSCME Loc. 3899 v. County of Siskiyou	No. 1909-M	International Brotherhood of Electrical Workers, Loc. Union 465 v. San Diego Trolley, Inc.
No. 1895	Newark Teachers Assn., CTA/NEA v. Newark Unified School Dist.; Newark Unified School Dist. v. Newark Teachers Assn., CTA/NEA	No. 1910-M	Ventura County Professional Peace Officers Assn. v. City of Ventura
No. 1896-M	Turlock Irrigation District Technical Employees Assn. v. Turlock Irrigation Dist.	No. 1911	Santa Clara Unified School Dist. v. California Federation of Teachers; United Teachers of Santa Clara, CTA/NEA
No. 1897	Gillead v. United Educators of San Francisco	No. 1912-H	State Employees Trades Council United v. Regents of the University of California
No. 1898-M	Buck v. Amalgamated Transit Union, Loc. 1704	No. 1913-M	Tesfasion v. City of Beverly Hills (Transportation Dept.)
No. 1899	Gutierrez v. SEIU Loc. 99	No. 1914-S	Burnett v. SEIU Loc. 1000, CSEA
No. 1900-M	Health Care Workers Union Loc. 250 v. Sutter County In-Home Supportive Services Public Authority	No. 1915-M	Operating Engineers Loc. 3 v. County of Sierra
		No. 1916-M	Teamsters Loc. 542 v. County of Imperial; California School Employees Assn. and its Imperial County Employees Chap. 2004

- No. 1917-M Langlois-Dul v. SEIU Loc. 715
- No. 1918-S Menaster v. Union of American Physicians & Dentists
- No. 1919-M Treas v. Inlandboatmans Union of the Pacific
- No. 1920-M Jurupa Community Services District Employees Assn. v. Jurupa Community Services Dist.
- No. 1921 California School Employees Assn. and its Chap. 407 v. Desert Community College Dist.
- No. 1922 Ulmschneider v. Los Banos Teachers Assn.
- No. 1923-S Horspool v. State of California (Dept. of Corrections and Rehabilitation)
- No. 1924 Mandell v. San Leandro Unified School Dist.
- No. 1925 Delano Union Elementary School Dist. v. Delano Elementary Teachers Assn.
- No. Ad-357 Victor Valley College Faculty Assn., CTA/NEA v. Victor Valley Community College Dist.
- No. Ad-358-H California State University v. California State University Employees Union and State Employees Trades Council-United
- No. Ad-359-S AFSCME Loc. 2620 v. Department of Personnel Administration
- No. Ad-360 Gillead v. San Francisco Unified School Dist.
- No. Ad-361-M City of Glendale v. International Brotherhood of Electrical Workers, Loc. 18
- No. Ad-362-M Vorgias v. State Bar of California
- No. Ad-363-M Tesfasion v. City of Beverly Hills Transportation Dept.
- No. Ad-364-M Operating Engineers Loc. 3 v. Town of Paradise
- No. Ad-366 Mandell v. San Leandro Unified School Dist.
- No. JR-24 Burlingame Elem. School Dist. v. CSEA

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