

PUBLIC NOTICE
Regular Business Meeting Agenda
Public Employment Relations Board
February 13, 2025 ~ 10:00 a.m.

LOCATION: Public Employment Relations Board *
1031 18th Street, First Floor, Room 103, Sacramento, CA

Please follow the instructions below to attend the meeting remotely.

Attend the meeting via video-conference:

1. In your web browser, go to <https://zoomgov.com/>
2. Select "Join a Meeting"
3. Enter the Meeting ID: **160 227 6566**
4. Enter your name
5. Enter the Passcode: **2077023971**, then click "continue"

OR

To attend the meeting via teleconference:

1. Dial (669) 254-5252
2. When prompted, enter the meeting id: **160 227 6566#**
3. Press # to skip the participant id
4. When prompted, enter the meeting password: **2077023971#**

A note on public comment:

In advance of the meeting, those who wish to comment during the public comment portion of the agenda or on specific agenda items may request to be added to the queue by emailing PERBInfo@perb.ca.gov. Please be sure to include your name, affiliation if any, and topic in the email.

During the meeting, you can make a request to speak in person, via video or the teleconference line when prompted by the Chair at each appropriate agenda item.

1. Roll Call.
2. Adoption of Minutes. December 12, 2024, Meeting
3. Public Comment. This is an opportunity for the public to address the Board on issues not scheduled on today's agenda. The Board cannot act on those items but may refer matters to staff for review and possible Board action at a future, publicly noticed meeting.

**This meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting shall make a request no later than five working days before the meeting to the Board by emailing PERBInfo@PERB.ca.gov, or sending a written request to PERB, 1031 18th Street, Sacramento, California 95811. Requests for further information should also be directed via email to PERBInfo@PERB.ca.gov. Additional information is also available at www.perb.ca.gov*

4. Staff Reports. The following Reports will be received. Any matter requiring Board action, and not included on this agenda, will be calendared for a subsequent public Board meeting.
 - A. Division of Administration
 - B. Office of General Counsel
 - C. Division of Administrative Law
 - D. State Mediation and Conciliation Service
5. Old Business:
 - A. LEERA Regulations: The General Counsel will ask the Board to approve the submission of a rulemaking package to the Office of Administrative Law to promulgate regulations applicable to the Legislature Employer-Employee Relations Act (LEERA).
6. New Business:
 - A. Staff Recognition: Announcement of the 2024 Employee Achievement awards
7. Recess to Closed Session. The Board will meet in a continuous closed session each business day beginning immediately upon recess of the open portion of this meeting through April 10, 2025.

The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. Code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(c)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c) and 11126(c)(2)(c)).

Attachment – Agenda Item 5.A

PROPOSED TEXT:

Please note: all underlined text indicates additions to the regulatory text and all ~~strikethrough~~ text indicates deleted material.

CHAPTER 1. PUBLIC EMPLOYMENT RELATIONS BOARD

SUBCHAPTER 2. DEFINITIONS AND GENERAL PROVISIONS

Article 1. Definitions

32002. LEERA.

“LEERA” means the Legislature Employer-Employee Relations Act as contained in Chapter 12.5 of Division 4 of Title 1 of the Government Code (commencing with Section 3599.50).

32003. Definition of Terms Under LEERA.

As applied to matters arising under LEERA:

(a) Employee Organization. “Employee organization” as defined in Government Code Section 3599.52(c) shall include any two or more employee organizations as defined therein who join together to become “joint petitioner” or “joint election intervenor.”

(b) “Intervenor” means either an employee organization granted intervention for the limited purpose of challenging the appropriateness of a petitioned-for unit, or an Election Intervenor.

(c) “Election Intervenor” means any employee organization, whether or not a party to a unit determination hearing, which files an intervention to appear on the ballot for an election in an appropriate LEERA unit.

32085. Workday.

(a) EERA - “Workday,” as utilized in matters arising under EERA, means a day when schools in a district are in session, excluding Saturdays and Sundays, except that a day(s) may be included or excluded as a workday when the Board determines that a substantial number of affected employees would or would not be at work on that day(s).

(b) HEERA - “Workday,” as utilized in matters arising under HEERA, means Monday through Friday, from September 20 through May 20, excluding Thanksgiving Day, and the Friday following Thanksgiving Day, and also excluding December 20 through January 2, except that a day(s) may be included or excluded as a workday when the Board determines that a substantial number of affected employees would or would not be at work on that day(s).

(c) Ralph C. Dills Act - “Workday,” as utilized in matters arising under Ralph C. Dills Act, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.

(d) MMBA - “Workday,” as utilized in matters arising under MMBA, means Monday through Friday, excluding any holiday defined under the applicable local rules or collective bargaining agreement.

(e) TEERA - “Workday,” as utilized in matters arising under TEERA, means Monday through Friday, excluding the following holidays: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Fourth of July (Independence Day), Labor Day, Thanksgiving and Christmas.

(f) Trial Court Act - “Workday,” as utilized in matters arising under the Trial Court Act, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.

(g) Court Interpreter Act - “Workday,” as utilized in matters arising under the Court Interpreter Act, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.

(h) JCEERA - “Workday,” as utilized in matters arising under JCEERA, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.

(i) LEERA - “Workday,” as utilized in matters arising under LEERA, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.

Article 2. General Provisions

32100. Application of Regulations.

(a) All rules and regulations within this Chapter shall apply to proceedings conducted under EERA, Ralph C. Dills Act, HEERA, LEERA, and JCEERA and to Chapters 2, 3, 4 and 10 within this Division.

(b) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to proceedings conducted under MMBA and to Chapter 5 within this Division.

(c) All rules and regulations within this Chapter, except for Article 6 of Subchapter 6, shall apply to proceedings conducted under TEERA and to Chapter 6, Subchapter 2, within this Division.

(d) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to proceedings conducted under the Trial Court Act and to Chapter 7 within this Division.

(e) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to proceedings conducted under the Court Interpreter Act and to Chapter 8 within this Division.

(f) Except as expressly provided otherwise, the rules and regulations within this Chapter, and Chapters 2 through 8, and 10, do not apply to mediation, election or other services provided by mediators or conciliators pursuant to Government Code sections 3600 and 3601.

(g) All rules and regulations within this Chapter, except for Subchapters 6 and 8, shall apply to proceedings conducted under the PEDD and the PECC, excluding the administration of interest arbitration pursuant to Government Code Section 3557(b)(4). The rules and regulations in Articles 1 and 2 of Subchapter 2, and Subchapter 10 within this Chapter, shall apply to the administration of interest arbitration conducted under the PECC pursuant to Government Code Section 3557(b)(4).

(h) As set forth in Section 72001, the following regulations in Chapter 1, Subchapter 2, apply to transit district representation documents filed with SMCS: 32020, 32030, 32040, 32050, 32055, 32056, 32060, 32075, 32080, 32085, 32090, 32091, 32092, 32093, 32094, 32105, 32110, 32111, 32115, 32121, 32125, 32130, 32132, 32135, 32136, 32140, 32143, 32145, 32147, 32149, 32150, 32155, 32162, 32164.

(i) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to unfair practice proceedings conducted under the OCTDA, SFBART Act, Sacramento RTD Act (for opt in units), Santa Cruz Metro Act, and VTA Act (for opt in units). Representation proceedings under the OCTDA, SFBART Act, Sacramento RTD Act, Santa Cruz Metro Act, and VTA Act are governed by Chapter 6, Subchapter 3, of these regulations.

32115. Location to File Representation Matters.

(a) This regulation applies to documents that are not electronically filed. Except as provided for in subsections (b), (c), (d), (e) and (f), the appropriate location for filing documents in representation matters shall be the regional office which serves the county in which the principal office of an employer is located, as described in Section 32075 of these regulations.

(b) The appropriate location for filing documents in representation matters under the Court Interpreter Act shall be as follows: in the case of Regions 1 and 4, the Los Angeles Regional Office; for Region 2, the San Francisco Regional Office; and for Region 3, the Sacramento Regional Office.

(c) The Sacramento Regional Office shall be the appropriate location for filing all documents in representation matters relating to the State of California-, the Assembly Committee on Rules, or the Senate Committee on Rules.

(d) The San Francisco Regional Office shall be the appropriate location for filing documents in representation matters relating to the Judicial Council, the University of California or University of California College of the Law, San Francisco (formerly known as Hastings College of the Law).

(e) The Los Angeles Regional Office shall be the appropriate location for filing documents in representation matters relating to the California State University.

(f) The Sacramento Regional Office shall be the appropriate location for filing all documents with SMCS in PUC transit representation matters.

(g) Notwithstanding the above, documents filed through e-PERB shall be deemed filed at the appropriate location.

32120. Filing Contracts with Board.

Each employer entering into a written agreement or memorandum of understanding with an exclusive representative pursuant to the PEDD, PECC, Trial Court Act, Court Interpreter Act, TEERA, MMBA, EERA, Ralph C. Dills Act, JCEERA, HEERA, LEERA, OCTDA, SFBART Act, Sacramento RTD Act, Santa Cruz Metro Act, or VTA Act, if requested by the Board, shall file one copy of the agreement and any amendments thereto with the Board within 15 days of the request.

32140. Service; Proper Recipient for Filing or Service.

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

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

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

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

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

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

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

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

(3) An employer

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

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

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

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

(ii) If the employer is the Directors of the University of California College of the Law, San Francisco (formerly known as Hastings College of the Law), the Office of the General Counsel of the University of California College of the Law, San Francisco;

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

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

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

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

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

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

(I) in the case of a PUC transit district employer as defined in Public Utilities Code sections 28848(a), 40122.1(a), and 102011, any person authorized to act on behalf of the employer.

(J) in the case of the Assembly Committee on Rules or the Senate Committee on Rules: the respective Committee Chair or their designated representative.

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

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

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

SUBCHAPTER 5. UNFAIR PRACTICE PROCEEDINGS

32602. Processing Violations.

(a) Alleged violations of the EERA, Ralph C. Dills Act, HEERA, MMBA, TEERA, JCEERA, LEERA, Article 3 of the Trial Court Act, the Court Interpreter Act, the PECC, the PEDD, the OCTDA, the SFBART Act, the Sacramento RTD Act, the Santa Cruz Metro Act, the VTA Act, and alleged violations of local rules adopted pursuant to the MMBA, Trial Court Act, Court Interpreter Act, or the OCTDA, shall be processed as unfair practice charges.

(b) Except as provided in subsections (c) and (d), unfair practice charges may be filed by an employee, employee organization, or employer against an employee organization or employer.

(c) A charge alleging that an employer or an exclusive representative has failed to comply with Government Code section 3523, 3524.78, 3547, 3547.5, ~~or 3595~~, or 3599.76, or Public Utilities Code section 99569, may be filed by any affected member of the public.

(d) A charge alleging that an exclusive representative has failed to comply with Government Code section 3515.7(e), 3546.5, 3584(b), or 3587, or Public Utilities Code Section 99566.3 may only be filed by an affected employee.

32615. Contents of Charge.

(a) A charge may be filed alleging that an unfair practice or practices have been committed. The charge shall be in writing, signed under penalty of perjury by the party or its agent with the declaration that the charge is true, and complete to the best of the charging party's knowledge and belief, and contain the following information:

(1) The name and address of the party alleged to have engaged in an unfair practice. If the party is the State of California, the name and address of the "appointing power" as defined in Government Code Section 18524, and of the Governor shall be set forth;

(2) The name, address, and telephone number of the charging party;

(3) The name, address, and telephone number of an authorized agent of the charging party to be contacted;

(4) The sections of the Government Code, the applicable local rules, or the sections of the Public Utilities Code, or the Welfare and Institutions Code, alleged to have been violated;

(5) A clear and concise statement of the facts and conduct alleged to constitute an unfair practice; and

(6) A statement of the remedy sought by the charging party.

(b) A charge filed under MMBA, Article 3 of the Trial Court Act, the Court Interpreter Act, or OCTDA alleging a violation of local rules must also contain a copy of the applicable rule(s).

(c) Service and proof of service on the respondent pursuant to Section 32140 are required.

32616. Venue of Charge.

(a) Except as otherwise provided in this section, a charge may be filed in any regional office described in Section 32075 which serves any county in which the conduct or act constituting the alleged unfair practice occurred or is occurring, the county in which any employee affected by the alleged unfair practice works, or the county in which the principal office of the employer is located.

(b) Any charge involving a worksite located outside the State of California shall be filed with the regional office serving the county in which the principal office of the employer is located. The Board may transfer any case to a different regional office.

(c) Any charge involving a regional committee established pursuant to Government Code section 71807 shall be filed with the Los Angeles Regional Office in the cases of Regions 1 and 4; with the San Francisco Regional Office in the case of Region 2; and with the Sacramento Regional Office in the case of Region 3.

(d) The Board may consolidate charges as it deems appropriate.

32620. Processing of Case.

(a) When a charge is filed, it shall be assigned to a Board agent for processing.

(b) The powers and duties of such Board agent shall be to:

(1) Assist the charging party to state in proper form the information required by Section 32615;

(2) Answer procedural questions of each party regarding the processing of the case;

(3) Facilitate communication and the exchange of information between the parties;

(4) Make inquiries and review the charge and any accompanying materials to determine whether an unfair practice has been, or is being, committed, and determine whether the charge is subject to deferral to arbitration, or to dismissal for lack of timeliness.

(5) Dismiss the charge or any part thereof as provided in Section 32630 if it is determined that the charge or the evidence is insufficient to establish a prima facie case; or if it is determined that a complaint may not be issued in light of the statute of limitations; or if the dispute is subject to deferral to final and binding arbitration under a collective bargaining agreement and the case arises under the Dills Act, EERA, JCEERA, LEERA, or Welfare and Institutions Code Section 10420 et seq.

(6) If the dispute is subject to deferral to final and binding arbitration pursuant to a collective bargaining agreement and the case does not arise under the Dills Act, EERA, JCEERA, LEERA, or Welfare and Institutions Code Section 10420 et seq., then place the charge in abeyance and dismiss the charge at the conclusion of the arbitration process unless the charging party demonstrates that the settlement or arbitration award is repugnant to the applicable Act, as provided in Section 32661.

(7) Issue a complaint pursuant to Section 32640.

(c) The respondent shall be apprised of the allegations, and may state its position on the charge during the course of the inquiries. Any response must be in writing, and signed under penalty of perjury by the party or its agent with the declaration that the response is true and complete to the best of the respondent's knowledge and belief. Service and proof of service pursuant to Section 32140 are required.

(d) The Board agent shall advise the charging party in writing of any deficiencies in the charge in a warning letter, unless otherwise agreed by the Board agent and the charging party, prior to dismissal of any allegations contained in the charge. The warning letter shall identify the facts obtained from the charge or any response to the charge which reveal a deficiency in the charge. The dismissal of a charge shall also be in writing and must identify the deficiencies in the charging party's allegations.

32661. Repugnancy Claims.

(a) An unfair practice charge may be filed based on a claim that the settlement or arbitration award is repugnant to the applicable Act.

(b) The charge shall comply with the requirements of Section 32615. It shall allege with specificity the facts underlying the charging party's claim that the arbitrator's award is repugnant to the purposes of the applicable Act.

(c) In reviewing the charge to determine whether a complaint shall issue, the Board agent shall have all of the powers and duties specified in Sections 32620, 32630, and 32640. A Board agent's issuance of a complaint under this section shall not be appealable to the Board itself except as provided in Section 32360.

(d) The Board itself may, at any time, direct that the record be submitted to the Board itself for decision.

SUBCHAPTER 6. REPRESENTATION PROCEEDINGS

Article 2. Elections

32720. Authority to Conduct Elections.

(a) An election shall be conducted when the Board issues a decision directing an election or approves an agreement for a consent election, pursuant to the provisions of Articles 3, 4 or 5 of this Subchapter; Chapter 2, Subchapters 1 and 2; Chapter 3, Subchapter 1; Chapter 4, Subchapter

1 or 2; Chapter 6, Subchapter 2; or Chapter 10, Subchapter 1; or Chapter 11, Subchapter 1 of these regulations. This Section does not apply to:

(1) elections involving transit districts, as defined by Section 72000, where SMCS conducts elections pursuant to Section 72135, or

(2) consent elections conducted by SMCS under the MMBA, Trial Court Act, or Court Interpreter Act, pursuant to Section 32999.

(b) The Board shall determine the date, time, place and manner of the election absent an approved agreement of the parties.

32721. Parties.

“Parties” means the TEERA, EERA, HEERA, JCEERA, LEERA or Ralph C. Dills Act employer, the employee organization which is the exclusive representative of employees in the voting unit, any employee organization eligible to appear on the ballot in a representation election, any employee organization granted intervention for the limited purpose of challenging the appropriateness of a petitioned-for unit, or any group of employees which has filed a valid petition pursuant to Section 32770(a).

32754. Bar to Conducting Election.

The Board shall dismiss a petition requiring a representation election if it determines:

(a) Under EERA, either that the conditions of Government Code Section 3544.7(b)(1) or (2) exist or that a representation election result has been certified affecting the described unit or a portion thereof within the 12 months immediately preceding the date of filing of the petition; or

(b) Under the Dills Act, (1) there is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees covered by a petition requiring an election, unless the petition is filed less than 242 days but more than 212 days prior to the expiration date of such memorandum or the end of the third year of such memorandum, provided that if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or, (2) that a representation election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of filing of the petition; or

(c) Under HEERA, either of the conditions of Government Code Section 3577(b)(1) or (2) exist; or

(d) Under TEERA, either of the conditions of Public Utilities Code Section 99564.4(b)(1) or (2) exist; or

(e) Under JCEERA or LEERA, (1) there is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees covered by a petition requiring an election, unless the petition is filed less than 120 days but more than 90 days prior to the expiration date of such memorandum or the end of the third year of such memorandum, provided that if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or, (2) that a representation election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of the filing of the petition.

Article 3. Request for Amendment of Certification

32772. Posting Notice of Decertification Petition.

(a) The employer shall post a notice of the decertification petition as soon as possible but in no event later than 15 days following service of a copy of the petition.

(b) The notice shall be posted conspicuously on all employee bulletin boards in each facility of the employer in which members of the established unit are employed.

(c) For Ralph C. Dills Act, JCEERA, LEERA, and TEERA petitions, the notice shall remain posted for a minimum of 20 days. For EERA and HEERA petitions, the notice shall remain posted for at least 15 workdays.

(d) The notice shall consist of a copy of the decertification petition with the appropriate portion of the form completed by the employer prior to posting.

(e) The employer shall serve a copy of the notice on the regional office and the parties when the notice is posted.

32776. Board Investigation/Election.

(a) Upon receipt of a petition for decertification, the Board shall investigate and, where appropriate, conduct a hearing and/or an election or take such other action as necessary.

(b) The petition shall be dismissed if the existing exclusive representative files a valid disclaimer of interest in representing employees in the unit within 20 days of the date the petition is filed with the regional office.

(c) Under EERA, the petition shall be dismissed whenever either of the conditions of Government Code Section 3544.7(b)(1) or (2) exist or a representation election result has been

certified affecting the described unit or a portion thereof within the 12 months immediately preceding the date of filing of the petition.

(d) Under Ralph C. Dills Act, the petition shall be dismissed (1) whenever there is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees covered by a petition requiring an election, unless the petition is filed during the window period defined in Section 40130 of these regulations, or the end of the third year of such memorandum, provided that if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or, (2) whenever a representation election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of filing of the petition.

(e) Under HEERA, the petition shall be dismissed whenever either of the conditions of Government Code Sections 3577(b)(1) or (2) exist.

(f) Under TEERA, the petition shall be dismissed whenever either of the conditions of Public Utilities Code Section 99564.4(b)(1) or (2) exist.

(g) Under JCEERA, the petition shall be dismissed (1) whenever there is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees covered by a petition requiring an election, unless the petition is filed during the window period defined in Section 95000 of these regulations, or the end of the third year of such memorandum, provided that if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or, (2) whenever a representation election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of the filing of the petition.

(h) Under LEERA, the petition shall be dismissed (1) whenever there is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees covered by a petition requiring an election, unless the petition is filed during the window period defined in Section 96000 of these regulations, or the end of the third year of such memorandum, provided that if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or, (2) whenever a representation election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of the filing of the petition.

(i) The “window period” in the term of an existing memorandum of understanding for filing a decertification petition is defined for Ralph C. Dills Act in Section 40130, for HEERA in Section 51026, for TEERA in Section 71010(j) 74026, and for JCEERA in Section 95000, and for LEERA in Section 96000 of these regulations. The “window period” in the term of an existing

lawful written agreement for filing a decertification petition is defined for EERA in Section 33020 of these regulations.

Article 5. Petition for Unit Modification

32781. Petition.

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

(a) A recognized or certified employee organization may file with the regional office a petition for modification of its units:

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

(b) A recognized or certified employee organization, an employer, or both jointly may file with the regional office a petition for unit modification:

(1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are management, supervisory, confidential, not covered by TEERA, EERA, HEERA, JCEERA, LEERA, or Ralph C. Dills Act, or otherwise prohibited by statute from inclusion in the unit;

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

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

(4) To delete classification(s) or position(s) not subject to (1) above which are not appropriate to the unit because said classification(s) or positions(s) are management, supervisory, confidential, not covered by TEERA, EERA, HEERA, JCEERA, LEERA, or Ralph C. Dills Act, or otherwise prohibited by statute from inclusion in the unit, provided that:

(A) The petition is filed jointly by the employer and the recognized or certified employee organization, or

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

(C) The petition is filed during the “window period” of a lawful written agreement or memorandum of understanding as defined in these regulations in Section 33020 for EERA, Section 40130 for Ralph C. Dills Act, Section 51026 for HEERA, Section 71010(j) ~~71026~~ for TEERA, ~~or~~ Section 95000 for JCEERA, or Section 96000 for LEERA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 6. Impasse Procedures

32792. Request That Board Determine Impasse and Appoint Mediator.

(a) After declaring impasse orally or in writing to the other party or after jointly declaring impasse, either or both parties may request the Board to determine that an impasse exists and appoint a mediator. This Section, however, applies only to the Dills Act, JCEERA, EERA, LEERA and HEERA. This request may initially be made by telephone, but a request in writing shall follow. The request shall be signed under penalty of perjury that the information alleged therein is true and complete to the best of the requesting party's/parties' knowledge and belief, and contain the following information:

(1) The name, address and telephone number of the employer and the exclusive representative;

(2) The name, title, address and telephone number of the agent to be contacted for each party;

(3) A description of the established unit, the approximate number of employees in the unit and the date the exclusive representative was recognized or certified;

(4) The type of dispute;

(5) The date(s) the parties' initial proposals were presented to the public;

(6) The date negotiations commenced, the number of negotiating sessions and the approximate total number of hours spent in negotiations to date;

(7) The status of negotiations, including the date impasse was declared by the party/parties pursuant to this section, the number and subject matter of issues on which the parties have reached tentative agreement, and the total number and subject matter of issues which remain in dispute;

(8) A clear and concise description of the negotiations which have occurred, including the extent to which the parties have made counter-proposals and have discussed the issues which remain in dispute, and any facts which indicate that future meetings without the assistance of a mediator would be futile.

(b) Unless the request is made jointly, the filing party shall concurrently serve a copy of the written request on the other party. Proof of service pursuant to Section 32140 shall be filed with the regional office.

CHAPTER 11. LEGISLATURE EMPLOYER-EMPLOYEE RELATIONS ACT

SUBCHAPTER 1. REPRESENTATION PROCEDURES

Article 1. General Provisions

96000. Window Period.

“Window period” means the 29-day period which is less than 120 days, but more than 90 days, prior to the expiration date of a memorandum of understanding between the employer and the exclusive representative. The memorandum of understanding expiration means the last effective date of the memorandum of understanding. Notwithstanding the provisions of Section 32130, the date on which the memorandum of understanding expires shall not be counted for the purpose of computing the window period.

96010. Statement of Interest.

Any employee organization which is not the exclusive representative of certain employees but which desires notice of filing of any certification, severance, decertification or unit modification petition or issuance of notice of hearing, decision or intent to conduct election affecting such employees may file a statement of interest with PERB. Such statement shall be in writing and shall include a list of the employment classes which the employee organization has an interest in representing. The statement of interest shall remain valid for 12 months and may be renewed in writing thereafter.

96020. Parties.

“Parties” means the Assembly Committee on Rules or the Senate Committee on Rules, the employee organization which is the exclusive representative of any employee covered by a petition or intervention, any employee organization known to have an interest in representing any employees as demonstrated by having filed a current statement of interest pursuant to Section 96010, any petitioner that has filed a valid petition pursuant to Section 96030, and any employee organization that has filed a valid election intervention pursuant to Section 96210 or any employee organization granted intervention for the limited purpose of challenging the appropriateness of a petitioned-for unit.

96030. Petition for Certification.

(a) An employee organization may file a petition pursuant to Government Code Section 3599.72 to become the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit which is represented by an exclusive representative. The petition shall be filed with PERB; be signed by an authorized agent of the employee organization; provide the full name, address, e-mail address, and telephone number of the employee organization; provide the name, title, address, e-mail address, and telephone number of the authorized representative of the employee organization; and identify the job titles or classifications of employees in the unit claimed to be appropriate.

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

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

96040. Posting Notice of Petition for Certification.

(a) The employer shall post a notice of the petition for certification as soon as possible but in no event later than 15 days following service of a copy of the petition. The notice shall only include the following information:

(1) The case number assigned by PERB to the petition for certification;

(2) The date the notice was posted by the employer;

(3) The date the petition for certification was filed with PERB;

(4) The name, address, e-mail address, and telephone number of the employee organization filing the petition for certification;

(5) A statement that the petition for certification is based on the claim that at least 30 percent of the employees in the unit claimed to be appropriate wish to be represented by the petitioning employee organization;

(6) The name, address, e-mail address, and telephone number of the employer;

(7) The final date for posting the notice; and

(8) A signature of an authorized agent of the employer.

(b) The notice shall be posted conspicuously on all employee bulletin boards in each employer facility in which members of the unit claimed to be appropriate are employed.

(c) The notice shall remain posted for 20 days.

(d) The notice shall be posted with a copy of the petition for certification.

96050. Determination of Proof of Support.

(a) Within 20 days of the date of service of a copy of the petition for certification, the employer shall file with PERB an alphabetical list, including job titles or classifications, of the employees employed in the claimed unit as of the last date of the payroll period immediately preceding the date the petition was filed, unless otherwise directed by the Board.

(b) If, after initial determination pursuant to Section 32700 that the proof of support is insufficient, the Board shall allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the final determination as to sufficiency or lack thereof regarding the proof of support. The petition shall be dismissed if the Board determines that the petition lacks sufficient proof of support.

96060. Withdrawal of Petition for Certification.

Any petition for certification may be withdrawn by an authorized representative of the employee organization that filed it at any time prior to the issuance of a final decision by the Board. Such withdrawal shall be filed with PERB. Service and proof of service of the withdrawal pursuant to Section 32140 are required.

96070. Amendment of Petition for Certification.

(a) A petition for certification may be amended to correct technical errors or to add or delete job classifications from the proposed unit at any time prior to the issuance of a notice of hearing, or notice of intent to conduct an election. The amendment shall be filed with PERB and include the information required in Section 96030(a). Service and proof of service of the amendment pursuant to Section 32140 are required.

(b) In addition to the requirements specified in subsection (a), amendments to add new job classifications to a proposed unit shall be subject to the following:

(1) Additional proof of support, if needed to maintain standing as a petitioner, shall be filed with PERB concurrently with the amendment.

(2) An employer response to the amended petition shall be filed with PERB within 15 days following the service of the Board determination of adequacy of proof submitted in support of

the petition, unless otherwise directed by the Board. The response shall conform to the requirements for employer responses as set forth in Section 96080(c).

(c) Amendments to correct technical errors or to add or delete job classifications from a party's proposed unit which are requested after the issuance of the notice of hearing are subject to approval by the hearing officer. The hearing officer shall grant the requested amendment, so long as it will not serve to unduly impede the hearing and provided that sufficient proof of support is evidenced to support any request for addition of job classifications.

96080. Employer Response Regarding Petition for Certification.

(a) Within 15 days following service of a Board determination finding sufficient proof submitted in support of the petition for certification, the employer shall file a written response with PERB.

(b) Service and proof of service of the response pursuant to Section 32140 are required.

(c) The employer shall include the following information in its response regarding a petition for certification:

(1) The name, address, e-mail address, and telephone number of the employer; and the name, address, e-mail address, and telephone number of the employer's authorized agent;

(2) Employer position regarding the petition for certification:

(A) Does the employer reasonably doubt the appropriateness of the unit proposed by the petitioner? If so, what classifications or positions remain in dispute? What is the employer's position regarding the dispute?

(B) Does the employer believe there are other reasons why a representation election should not be held in the proposed unit? If so, please fully explain.

(d) The employer shall attach a copy of the petition for certification to the response.

96090. Board Investigation.

(a) Whenever a petition for certification is filed with the Board, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election, or take such other action as deemed necessary to decide the questions raised by the petition.

(b) A petition for certification shall be dismissed in part or in whole whenever the Board determines that:

(1) The petitioner has no standing to petition for the action requested; or

(2) Any of the employees in the claimed unit are currently included in any established bargaining unit and are represented by an exclusive representative; or

(3) A valid election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of filing of the petition for certification; or

(4) The petition for certification was filed either after a notice of hearing or, where no hearing has been held, notice of intent to conduct an election covering any of the employees in the unit proposed by the petitioner has been issued by the Board.

Article 2. Severance Petition

96100. Severance Petition.

(a) An employee organization may file a severance petition to become the exclusive representative of an appropriate unit consisting of a group of employees who are already members of a larger established unit represented by an incumbent exclusive representative. The severance petition shall be filed with PERB, be signed by an authorized agent of the employee organization, and include the following information:

(1) The name, address, e-mail address, and telephone number of the employer; and the name, address, e-mail address, and telephone number of the employer's authorized agent;

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

(3) A statement that the severance petition is accompanied by proof of majority support of the employees in the unit claimed to be appropriate;

(4) The approximate number of employees in the unit claimed to be appropriate;

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

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

(7) The name, address, e-mail address, and telephone number of the exclusive representative of the established unit; and the name, address, e-mail address, and telephone number of the exclusive representative's authorized agent;

(8) The name, address, e-mail address, and telephone number of the petitioning employee organization; and the name, address, e-mail address, and telephone number of the petitioning employee organization's authorized agent.

(b) The severance petition shall be accompanied by proof of majority support of the employees in the unit claimed to be appropriate. Proof of support is defined in Section 32700.

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

96110. Posting Notice of Severance Petition.

(a) The employer shall post a notice of the severance petition as soon as possible but in no event later than 15 days following service of a copy of the petition. The notice shall only include the following information:

(1) The case number assigned by PERB to the severance petition;

(2) The date the notice was posted by the employer;

(3) The date the severance petition was filed with PERB;

(4) The name, address, e-mail address, and telephone number of the employee organization filing the severance petition;

(5) A statement that the severance petition is based on the claim that a majority of the employees in the unit claimed to be appropriate wish to be represented by the petitioning employee organization;

(6) The names, addresses, e-mail addresses, and telephone numbers of the employer and incumbent employee organization;

(7) The final date for posting the notice; and

(8) A signature of an authorized agent of the employer.

(b) The notice shall be posted conspicuously on all employee bulletin boards in each employer facility in which members of the unit claimed to be appropriate are employed.

(c) The notice shall remain posted for 20 days.

(d) The notice shall be posted with a copy of the severance petition.

96120. Board Determination Regarding Proof of Support - Severance Petition.

(a) Within 20 days of the date of service of the petition, the employer shall file with PERB an alphabetical list, including job titles or classifications, of employees employed in the claimed

unit as of the last date of the payroll period immediately preceding the date the petition was filed with PERB, unless otherwise directed by the Board.

(b) If, after initial determination, the proof of support is insufficient, the Board shall allow up to 10 days or until the last day of the “window period” as defined by Section 96000, whichever occurs first, to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the determination as to sufficiency or lack thereof regarding the proof of support.

96130. Response to Severance Petition.

(a) The employer or the exclusive representative of the established unit may file a responding statement supporting or opposing the severance petition. Unless otherwise notified by the Board, such response shall be filed with PERB within 20 days following the date of service of the severance petition. Service and proof of service of the response pursuant to Section 32140 are required.

(b) The response shall be in writing, signed by an authorized agent of the responding party, and include the following information:

(1) The name, address, e-mail address, and telephone number of the responding party; and the name, address, e-mail address, and telephone number of the responding party's authorized agent;

(2) A statement confirming or refuting the information contained in the severance petition regarding the date the incumbent exclusive representative was recognized or certified, and the effective date and the expiration date of any current agreement covering employees in the established unit;

(3) A concise statement setting forth support of or opposition to the unit proposed by the severance petition.

(c) The responding party shall attach a copy of the severance petition to the response.

96140. Amendment of Severance Petition; Posting Amendments.

(a) A severance petition may be amended to correct technical errors or to delete job classifications or positions from the proposed unit at any time prior to the issuance of a PERB notice of representation hearing or, where no hearing has been held, issuance of a Directed Election Order or approval of a Consent Election Agreement. The amendment shall be filed with PERB and include the information required in Section 96100(a). Service and proof of service pursuant to Section 32140 are required.

(b) A severance petition may be amended to add job classifications or positions to the proposed unit, subject to the following:

(1) An amendment to add job classifications or positions to a proposed unit may be filed within the time frames listed in subsection (a), except that if there exists a memorandum of understanding between the employer and the exclusive representative covering any of the employees to be added to the proposed unit, the amendment must be filed in the manner set out in Section 32110 during the “window period” as defined by Section 96000.

(2) The amendment shall be filed with PERB and include the information required in Section 96100(a). Service of the amendment, excluding any proof of support, and proof of service pursuant to Section 32140 are required. Additional proof of support, if needed to maintain standing as a petitioner, shall be filed with PERB with the amendment.

(3) The employer shall post a notice of the amendment as soon as possible but in no event later than 15 days following service of the amendment. The notice shall conform to the requirements for posting a notice of severance petition as set forth in Section 96110, and shall remain posted for 20 days.

(4) A response from any party to the amended petition may be filed with PERB within 15 days following the service of the Board's determination of adequacy of proof of support, unless otherwise directed by the Board. The response shall conform to the requirements for responses as set forth in Section 96130.

(c) Amendments to correct technical errors, add or delete job classifications or positions from a party's proposed unit which are requested after the issuance of the notice of hearing are subject to approval by the hearing officer. The hearing officer shall grant the requested amendment, so long as it will not serve to unduly impede the hearing, and provided that sufficient proof of support is evidenced to support any request for addition of job classifications. Posting of any such amendments shall be at the discretion of the hearing officer.

96150. Withdrawal of Severance Petition.

Any severance petition may be withdrawn by an authorized representative of the employee organization that filed it. Such withdrawal shall be filed with PERB. Service and proof of service pursuant to Section 32140 are required.

96160. Board Investigation.

(a) Whenever a severance petition is filed with the Board, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election or take such other action as deemed necessary to decide the questions raised by the petition.

(b) A severance petition shall be dismissed in part or in whole whenever the Board determines that:

(1) The petitioner has no standing to petition for the action requested; or

(2) There is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees covered by the severance petition, unless the petition is filed less than 120 days but more than 90 days prior to the expiration date of such memorandum or the end of the third year of such memorandum; provided that, if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or

(3) A valid representation election result has been certified affecting the described unit or a subdivision thereof within the 12 months immediately preceding the date of filing of the severance petition.

Article 3. Representation Election

96200. Notice of Intent to Conduct Election.

Upon determination to conduct a representation election other than an election directed by a Board decision, the Board shall issue a notice of intent to conduct election to all interested parties. A notice of decision which orders a representation election shall serve as a notice of intent to conduct election.

96210. Intervention to Appear on Ballot.

(a) Within 20 days following issuance of a notice of intent to conduct election in the appropriate unit, any employee organization may file an intervention to appear on the ballot. The intervention shall be filed with PERB and include the information required in Section 96030(a). The intervention shall be accompanied by proof of support of at least 30 percent of the employees in the appropriate unit. Proof of support is defined in Section 32700.

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

96220. Board Determination Regarding Proof of Support.

(a) Within 20 days of issuance of a notice of intent to conduct election, the employer shall file with PERB an alphabetical list, including job titles or classifications of employees employed in the appropriate unit, as of the last date of the payroll period immediately preceding the date of issuance of the notice of intent to conduct election, unless otherwise directed by the Board.

(b) If, after initial determination pursuant to Section 32700 that the proof of support is insufficient, the Board shall allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the determination as to sufficiency or lack thereof regarding the proof of support.

96230. Conduct of Elections.

All elections shall be conducted by the Board in accordance with election procedures described in Chapter 1, Subchapter 6, Article 2 of these regulations.