

## **PUBLIC MEETING MINUTES**

DECEMBER 12, 2024

10:00 a.m.

### **PUBLIC EMPLOYMENT RELATIONS BOARD**

Los Angeles Regional Office

425 W. Broadway

Glendale, California

#### **Members Present**

ERIC R. BANKS, Chair

ARTHUR A. KRANTZ, Member

LOU E. PAULSON, Member

MARK KRAUSSE, Member

*Quorum Present?* Yes

#### **Executive Staff Present**

JOSHUA GOLKA, Executive Director

SUSAN DAVEY, Deputy Executive Director

FELIX DE LA TORRE, General Counsel

ERIC CU, Chief Administrative Law Judge

GERALD FECHER, Director, SMCS

**Proceedings:**

Meeting called to order at 10 a.m. by Chair Banks.

Since October 10th, 2024, the Board has been in continuous closed session to deliberate on cases pending on the Board's docket. A list of those Board decisions, determinations, and resolutions can be viewed on PERB's website.

**Motion:** Motion by Member Paulson and seconded by Member Krantz to close the October 10th, 2024 Public Meeting.

**Assents:** Banks, Krantz, Paulson, Krausse

**Motion Adopted - 4 to 0**

Chair Banks officially opened the Public Meeting of December 12th, 2024. Chair Banks further stated that one of the great things about working with his colleagues is the commitment to ensuring the Board is accessible to its constituents and the meeting in Los Angeles is a good example of that. Chair Banks thanked Henry Stevens, Rachel Morgan, Matt Eliaser, Joshua Golka, and Eric Cu for their work behind the scenes to ensure the meeting happened.

**Adoption of Minutes:**

Chair Banks asked the Board Members if they wished to discuss any potential corrections or move to approve the minutes of the October 10th, 2024 meeting. Chair Banks had one correction for the October 10th minutes.

**Motion:** Motion by Member Krausse and seconded by Member Krantz to approve the corrected minutes of the October 10th, 2024, Public Meeting.

**Assents:** Banks, Krantz, Paulson, Krausse

**Motion Adopted - 4 to 0**

## **Public Comment**

Tim Yeung, an attorney from the law firm Sloan Sakai spoke before the Board. Mr. Yeung thanked the Board for its work and stated that PERB has a lot of impact throughout California for many people from issued decisions and continues to be an intense interest of public agencies statewide.

## **Executive Staff Reports:**

Joshua Golka, Executive Director, stated that the Board's average time to issue a decision once all the filings are final is at 16 weeks for the current fiscal year and the 2023 – 2024 fiscal year average was 19 weeks. This is illustrated in a graph posted on PERB's website under *News Items*.

Mr. Golka then announced Eric Cu was selected as PERB's Chief Administrative Law Judge. There were three staff milestone anniversaries: Mediator Raphael Leib is celebrating 5 years with PERB, Attorney Jeremy Zeitlin is celebrating 10 years with PERB, and Deputy General Counsel Mary Weiss is celebrating 15 years with PERB.

In legislative matters, Mr. Golka stated the new two-year legislative session will start in January and there have been just over 100 bills introduced in the session so far. Mr. Golka stated bills that impact PERB's jurisdiction or operations will be monitored and reported back to the Board.

Regarding rulemaking, Mr. Golka stated there are six additional rulemaking efforts in various stages of development, such as Transit II, which adds Santa Cruz Metro and the Santa Clara Valley Transportation Authority to PERB's recently updated transit regulations, which will head to the formal rulemaking process through the Office of Administrative Law.

## **Report - Division of Administration**

Susan Davey, Deputy Executive Director, reported a total of 75 filled positions plus a .25 retired annuitant and three vacancies.

Ms. Davey announced Member Adrin Nazarian left PERB in November 2024, Yaron Partovi was promoted to Attorney Supervisor, and Eric Cu was promoted to Chief Administrative Law Judge.

Ms. Davey stated Human Resources is in the initial phases of its State Personnel Board audit.

Regarding facilities, Ms. Davey stated the PERB San Francisco Regional Office construction project is progressing and still estimates moving in around Spring 2025.

For fiscal services, Ms. Davey stated the 2025 State Bar Dues payment is in process.

Ms. Davey stated for the budget, there is a projected balance of \$125,033.

Lastly, Ms. Davey stated IT has completed an e-waste disposal event, there is a more secure new guest Wi-Fi network, and has updated system log applications. Ms. Davey stated the IT department is preparing for its 1<sup>st</sup> audit with the California Department of Technology.

Member Krausse asked Ms. Davey if this is the time of the year where PERB receives calls from the Department of Finance regarding budget cut drills. Ms. Davey stated they have been working through the drills with all the compensation adjustments that come in and it is ongoing.

### **Report - Office of the General Counsel**

Felix De La Torre, General Counsel, first congratulated Yaron Partovi for his promotion. Mr. De La Torre reported that in October to November, the Office of the General Counsel received 114 new unfair practice charges. While in August and September, the Office of the General Counsel received 115 new unfair practice charges.

From October to November, the General Counsel's Office completed 94 case investigations compared to 105 case investigations completed in August through September.

From October to November, the General Counsel's Office issued 57 complaints and dismissed 14 charges which compares to 62 complaints issued and 16 dismissed in the August to September period.

The average time for disposition of UPCs is 188 days through October to November compared to 164 days through August to September.

The current active caseload has ticked up to 284 cases from 265.

Regarding factfinding requests, the General Counsel's Office had received four requests in the October to November period compared to two in the August to September period.

Representation petitions are at 17 during the October to November period, compared to 12 received in the August to September period.

Mr. De La Torre reported on seven requests for injunctive relief, three new litigation matters, and one final case determinations. He provided the details and status of each case.

### **Report - Division of Administrative Law**

Eric Cu, Chief Administrative Law Judge, gave a staffing update and reported there is an open recruitment for the role of Deputy Chief Administrative Law Judge.

For Case Processing, Mr. Cu stated that cases continue to be set 3 to 3-1/2 months out from the informal. The number of cases pending issuance of a written proposed decision is at 26 and 55 cases are scheduled for a formal hearing in the October to November period, totaling to 81 active cases. Compared to the August to September period which had 35 cases pending issuance of a written proposed decision and 25 cases scheduled for formal hearing, totaling to 58 active cases.

Mr. Cu then gave case processing data from 2022 and 2023 in the October to November period, which came out to 107 active cases in 2023, and 124 active cases in 2022. Lastly, Mr. Cu provided pre pandemic data from February 2020, which came out to 91 active cases.

For Formal Hearings, Mr. Cu stated from the October to November period there were 58 days of hearings held, while in the August to September period there were 54 days of hearings held. Mr. Cu also provided formal hearing data from 2022 and 2023 in the October to November period. In 2023, there were 64 days of hearings held and 2022 there were 84 days of hearings held.

Regarding Proposed Decisions, Mr. Cu stated from the October to November period, 11 were issued compared to 8 issued during the August to September

period. Mr. Cu stated in 2023 during the October to November period there were 13 and in 2022 there were 6 proposed decisions issued. The average time to issue a Proposed Decision from the date of submission to the issuance of the Proposed Decision in the October to November period is 103 days or 15 weeks. Comparatively, in the August to September period it is 98 days or 14 weeks. Mr. Cu. compared this to 2023, where the average time was 120 days and in 2022, the average time was 166 days to issue a proposed decision.

Lastly, Mr. Cu stated that the 2024-2025 Fiscal Year Exceptions Rate is currently 35% while the updated 2023-2024 Fiscal Year Exceptions Rate is 42%. In addition, Mr. Cu provided data in a 6-month interval going back three years to show a longer-term trend. In the past 6 months the exceptions rate was 52%, the past 12 months the exceptions rate was 54%, the past 18 months the exceptions rate was 51%, the past 24 months the exceptions rate was 46%, and lastly in the past 36 months the exceptions rate was 48%.

### **Report - State Mediation & Conciliation Service (SMCS)**

Gerald Fecher, Director of SMCS, provided a Case Processing update to the Board. Mr. Fecher stated during October and November SMCS has 134 active cases and 137 active cases during August and September. Cases opened during October and November was 70 and cases opened during August and September was 64. Cases closed during October and November was 74 and cases closed during August and September was 57.

For Representation and Election, there are 8 current matters.

For Program Administration, Mr. Fecher reported that, in October and November, SMCS received a total of \$3,775 in chargeable services from the Arbitration Panel Program and \$805 from the Conflict Resolution in the Workplace program, totaling to \$4,580. In August and September, SMCS received \$4,600 in chargeable services from the Arbitration Panel Program and \$345 from the Conflict Resolution in the Workplace program, totaling to \$4,945.

Mr. Fecher reported SMCS conducted outreach by speaking and participating on panels throughout the labor and employment relations community. SMCS continues to grow its training and facilitation program to its constituents as a result of outreach efforts, such as requests for Interest-Based Bargaining

training. Mr. Fecher stated parties are reaching out sooner before the conflict gets into impasse due to the outreach efforts and training.

Finally, Mr. Fecher reported that most cases are conducted in person but are still offering video-based mediation developed during the pandemic.

**Motion:** Motion by Member Krantz and seconded by Member Krausse to accept the reports of the Executive Director, the Division of Administration, the Office of the General Counsel, the Division of Administrative Law, and the State Mediation and Conciliation Services.

**Assents:** Banks, Krantz, Paulson, Krausse

**Motion Adopted - 4 to 0**

### **Old Business**

Joshua Golka, Executive Director provided an update regarding PERB's case processing efficiency. Mr. Golka stated the final report is being drafted. He thanked PERB's constituents who participated in the virtual feedback forum where PERB solicited input on how to make the website and ePERB public portal better and more accessible to constituents. Mr. Golka stated some of the recommended changes have been implemented and some are still being evaluated. The final report on the entire initiative, and the work that has been done as a result, will be released at the February Board Meeting. Chair Banks stated that this was a process started in 2017 and consisted of a lot of input from constituents and staff. He is looking forward to seeing the report.

Felix De La Torre, General Counsel provided a rulemaking process report regarding PERB regulation 32635, appeals of dismissals. Mr. De La Torre asked the board to approve the text provided in the agenda regarding the dismissal regulation, to add word limits. Mr. De La Torre stated if approved, the next step would be to move it to the Office of Administrative Law for rulemaking.

Joel Block, a sole practitioner spoke before the Board voicing his opposition to the word limit in the proposed rulemaking package. He expressed that in the case of lengthy dismissals, a longer appeal may be required among other arguments.

Member Krantz thanked Mr. Block for his thoughtful comments and stated that he supports the language for the rulemaking process and the proposed word limit. Member Krantz then stated that he is sensitive to the issues raised by Mr. Block, as it is possible to have a dismissal of an appeal that is 18,000 words and the proposed rulemaking addresses that by allowing any party with good cause to exceed the limit. Chair Banks stated that the Board is receptive to requests to exceed word limits due to the fact there were two accepted requests that were reported at the beginning of the Public Meeting.

**Motion:** Motion by Member Krausse and seconded by Member Paulson to approve submitting the proposed text of the regulations with the aforementioned changes to the Office of Administrative Law to initiate the formal rulemaking process regarding PERB Regulation 32635 appeals of dismissals.

**Assents:** Banks, Krantz, Paulson, Krausse

**Motion Adopted - 4 to 0**

### **New Business**

Joshua Golka, Executive Director requested that the Board to direct the Office of the General Counsel to explore the use of electronic voting in representation elections. Mr. Golka stated that after a successful use of electronic voting in an election where both parties agreed to the use of that method of voting, PERB would like the Office of General Counsel to explore the use of that option and to report back on the viability of doing so. He also asked that the viability of PERB being the ones that conduct the election using their own resources be explored.

Joel Block addressed the Board stating the use of modern technology to facilitate and efficiently determine the choice of employees is critical and better for employers and employees.

Kerianne Steele, a partner with the law firm Weinberg, Roger and Rosenfeld addressed the Board on behalf of SEIU State Council, stating they are happy PERB is exploring electronic voting as it will make representation elections more accessible by increasing voter participation and promoting democracy.

Chair Banks stated he is excited to explore this as well as the cost savings which would allow attorney resources to focus on constituents' filings before the Board. Chair Banks appointed a committee of Members Krantz and Krausse to work with the Office of General Counsel to study and receive feedback from constituents and report back at either the February or April Board meeting.

**Motion:** Motion by Member Paulson and seconded by Member Krausse to direct the Office of the General Counsel to work with Member Krantz and Krausse to explore the use of electronic voting and representation elections and to report back at the February or April 2025 Board meeting.

**Assents:** Banks, Krantz, Paulson, Krausse

#### **Motion Adopted - 4 to 0**

Felix De La Torre, General Counsel provided a request to the Board to approve a committee to explore expanding PERB regulations that apply to Injunctive Relief requests and research if there is technology that can be used to make PERB more efficient and accurate in Injunctive Relief processing. Mr. De La Torre, asked for a subcommittee to meet with constituents and talk within the agency to figure out if there are changes that need to be made.

Kerianne Steele a partner with the law firm Weinberg, Roger and Rosenfeld addressed the Board regarding AB 2889 which will go into effect January 1st, 2025. It will give PERB jurisdiction over certain Injunctive Relief requests related to County of Los Angeles and City of Los Angeles. Ms. Steele stated that this is also an opportunity to look at PERB's website and forms to make things clearer for practitioners in the unique scenario of filing Injunctive Relief in County of LA and City of LA. Ms. Steele stated that PERB may want to have the subcommittee look at these logistical questions.

Chair Banks stated that the Board has done a lot of work through Injunctive Relief decisions to clarify or give better direction to how PERB conducts Injunctive Relief processes. Chair Banks assigned a subcommittee of Members Krantz and Paulson to work with Mr. De La Torre regarding potential changes to PERB regulations regarding Injunctive Relief requests.

**Motion:** Motion by Member Krausse and seconded by Member Paulson to authorize the General Counsel to work with the committee of Members Krantz

and Paulson to explore potential changes to PERB regulations governing requests for Injunctive Relief.

**Assents:** Banks, Krantz, Paulson, Krausse

**Motion Adopted - 4 to 0**

Chair Banks recognized former Board Member Adrin Nazarian. Chair Banks congratulated former Member Nazarian for successfully winning his bid for the Los Angeles City Council. Chair Banks and Members Krantz, Paulson, and Krausse each personally thanked former Member Nazarian for his work at PERB.

Former Member Nazarian thanked Chair Banks and Members Paulson, Krantz, and Krausse for their work at PERB. Former Member Nazarian also thanked PERB attorneys and support staff for their work at PERB.

**Meeting Adjourned**

Chair Banks stated that, immediately upon recess, the Board will meet in continuous closed session until the next regularly scheduled public meeting on February 13, 2025, in the Sacramento Regional Office.

During closed session, the Board will deliberate on cases listed on the Board's docket, personnel matters, pending litigation, and requests for injunctive relief.

**Motion:** Motion by Member Krantz and seconded by Member Paulson to recess the meeting to continuous closed session.

**Assents:** Banks, Krantz, Paulson, Krausse

**Motion Adopted - 4 to 0**

APPROVED AT THE PUBLIC MEETING OF:

February 13, 2025