

PUBLIC EMPLOYMENT RELATIONS BOARD



Sacramento Regional Office
1031 18th Street
Sacramento, CA 95811-4124
Telephone: (916) 327-8387
Fax: (916) 327-6377



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Kristine Rodrigues, Labor Relations Officer
Department of Personnel Administration
1515 S Street, North Bldg., Suite 400
Sacramento, CA 95811-7258

Gary M. Messing, Attorney
Carroll, Burdick & McDonough, LLP
1007 7th Street, Suite 200
Sacramento, CA 95814

Joseph W. Rose, Attorney
Rose Law Firm
2240 East Bidwell Street
Folsom, CA 95630

Re: Case No. SA-SV-171-S
State of California (Department of Personnel Administration)

Dear Interested Parties:

Investigation of the severance petition filed in the above-referenced case has established the following facts:

1. The current exclusive representative of the unit in question is California Statewide Law Enforcement Association (CSLEA), which was last certified on December 2, 2005.
2. No memorandum of understanding (MOU) currently exists between the exclusive representative and the employer.

This investigation has resulted in the administrative determination that the limitations expressed in PERB Regulation 40260(b)(2)¹ do not exist in this case. The severance petition is therefore determined to be timely filed.

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Copies of the Regulations may be purchased from PERB's Publications Coordinator, 1031 18th Street, Sacramento, CA 95811-4124, and the text is available at www.perb.ca.gov.

Review of the proof of support submitted by Peace Officers of California with its severance petition in the above-referenced case has resulted in the administrative determination that the support is sufficient to meet the requirements of Regulations 40200(b) and 32700.

CSLEA raised a number of concerns related to the validity of the proof of support. PERB took special precaution to verify the dates of signature and language on the proof of support material to insure it met the standards as expressed in Regulation 32700 (a), (b) and (c). Those sections provide:

(a)(1) Proof of employee support for representation petitions, including decertification petitions, petitions for certification, requests for recognition, severance requests or petitions, and unit modification petitions, shall clearly demonstrate that the employee desires to be represented by the petitioning employee organization for the purpose of meeting and negotiating or meeting and conferring on wages, hours and other terms and conditions of employment.

(b) The proof of support shall indicate each employee's printed name, signature, job title or classification and the date on which each individual's signature was obtained. An undated signature or a signature dated more than one calendar year prior to the filing of the petition requiring employee support shall be invalid for the purpose of calculating proof of support. Any signature meeting the requirements of this section shall be considered valid even though the signatory has executed authorizations for more than one employee organization.

(c) Any proof of support validly obtained within one year immediately prior to the date the petition or amendment requiring employee support is filed shall remain valid and may be used as proof of support to qualify for appearance on the ballot in an election, provided the employee's job classification is included in the unit in which the election is to be conducted.

CSLEA argued that PERB should not consider the support submitted by POC with the earlier filed petitions of November 2007 and July 2008 because the units described in the earlier petitions were different than the one sought in the pending petition.² The proof of support regulations of PERB do not mention the unit description as a requirement to be included in the language of the petitions which employees sign. In San Juan Unified School District (1995) PERB Decision No. 1082, the Board held that proof of support submitted by a petitioner that

² In addition, there was one instance of alleged fraud which CSLEA reported. This allegation was investigated. No pattern of conduct was found. There was no further information discovered to support the allegation.

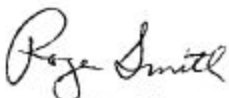
originally had filed a decertification petition could convert that same proof of support to support a severance petition. The Board instructs that employees will be informed as to what is being contested at the time they vote, in the event an election is conducted.

Similarly here, if the unit as petitioned for is held to be appropriate, employees will be instructed as to the unit description and only those employees in those job classifications will be eligible to decide which organization, if any, they wish to represent them.

PERB will now proceed to investigate and determine whether the petitioned for unit is an appropriate one. In order to make such a determination, initially I will schedule an Informal Settlement Conference to determine what issues separate the parties and what remain to be decided by PERB.

Please contact me at the address or telephone number shown above if you have any questions concerning this matter.

Sincerely,



Roger Smith
Labor Relations Specialist

cc: Kasey Clark
Arle Simon

RCS