



PERB
California Public Employment
Relations Board

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November 20, 2023

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Re: *State of California (Department of Human Resources) v. California Association
of Professional Scientists*
Unfair Practice Charge No. SA-CO-526-S
COMPLAINT

Dear Parties:

The Office of the General Counsel has issued the enclosed COMPLAINT in the above-entitled matter. The Respondent is required to file an **ANSWER** within twenty (20) calendar days from the date of service of the COMPLAINT, pursuant to PERB Regulation 32644.¹ The required contents of the **ANSWER** are described in PERB Regulation 32644(b).

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of PERB's Regulations may be found at www.perb.ca.gov.

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If you have not filed a Notice of Appearance form, one should be completed and returned with your **ANSWER**. Please be aware that once legal counsel is designated, PERB will only correspond with that individual(s).

An informal settlement conference will be scheduled shortly. Please direct all inquiries, filings and correspondence to the undersigned. Designated legal counsel who do not attend the Informal Conference for any reason, must designate in writing consent that the meeting go forward in their absence, including, but not limited to the execution of a settlement agreement.

Sincerely,

A handwritten signature in black ink that reads "Jeremy Zeitlin". The signature is written in a cursive, slightly slanted style.

Jeremy Zeitlin
Senior Regional Attorney

JGZ

Enclosure

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



STATE OF CALIFORNIA (DEPARTMENT OF
HUMAN RESOURCES),

Charging Party,

v.

CALIFORNIA ASSOCIATION OF
PROFESSIONAL SCIENTISTS,

Respondent.

Case No. SA-CO-526-S

COMPLAINT

It having been charged by Charging Party that Respondent engaged in unfair practices in violation of Government Code section 3519.5, the General Counsel of the Public Employment Relations Board (PERB), pursuant to Government Code sections 3513(h), 3514.5 and 3541.3(i) and California Code of Regulations, title 8, section 32640, issues this COMPLAINT on behalf of PERB and ALLEGES:

1. Charging Party is the State employer within the meaning of Government Code section 3513(j).
2. Respondent is a recognized employee organization within the meaning of Government Code section 3513(b) of employees in bargaining unit 10.

Strike Prior to Completion of Impasse Procedures

3. In or about January 2020, the parties began to negotiate for a successor memorandum of understanding (MOU) pursuant to Government Code section 3517. These negotiations have continued to date. On November 8, 2023, the parties participated in mediation pursuant to Government Code section 3518. A second mediation session is scheduled to occur on November 28, 2023.

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4. On or about November 9, 2023, Respondent announced that its members would strike from November 15, 2023, through November 17, 2023.

5. By the acts and conduct described in paragraph 4, Respondent failed and refused to bargain in good faith with Charging Party in violation of Government Code section 3517 and committed an unfair practice under Government Code section 3519.5(c).

6. By the acts and conduct described in, but not limited to, paragraph 4, Respondent failed and refused to participate in impasse procedures in good faith in violation of Government Code section 3519.5(d).

Unilateral Change to Contractual No-Strike Clause

7. Charging Party and Respondent are parties to an MOU covering terms and conditions of employment for employees in bargaining unit 10, valid through July 1, 2020.

8. The MOU contains a No-Strike Clause that prohibits Respondent's membership from going on strike.

9. Despite the expiration of the MOU on July 1, 2020, its "no strike provisions" remain in effect until Charging Party and Respondent have reached impasse in their successor negotiations. (Gov. Code, § 3517.8, subds. (a) & (b).)

10. On or about November 9, 2023, Respondent announced that its members would strike from November 15, 2023, through November 17, 2023.

11. Based on, but not limited to, the acts and conduct described in paragraph 10, Respondent changed the policy described in paragraph 8.

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12. Respondent took the actions described in paragraph 10 without having afforded Charging Party an opportunity to meet and confer over the decision to implement the change in policy and/or the effects of the change in policy.

13. By the acts and conduct described in paragraph 10, Respondent unilaterally repudiated the MOU's No Strike Clause, made a unilateral change, and thus failed to meet and confer in good faith with Charging Party in violation of Government Code section 3517 and committed an unfair practice under Government Code section 3519.5(c).

Any amendment to the complaint shall be processed pursuant to California Code of Regulations, title 8, sections 32647 and 32648.

DATED: November 20, 2023

J. Felix De La Torre
General Counsel

By /s/ Sheena J. Farro
Sheena J. Farro
Senior Regional Attorney

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, Sacramento Regional Office, 1031 18th Street, Sacramento, CA, 95811-4124.

On November 20, 2023, I served the Complaint Cover Letter regarding Case No. SA-CO-526-S on the parties listed below by

I am personally and readily familiar with the business practice of the Public Employment Relations Board for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Sacramento, California.

Personal delivery.

Electronic service (e-mail).

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 20, 2023, at Sacramento, California.

Michelle L Bacigalupi

(Type or print name)



(Signature)