



Collective Bargaining Update

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Agenda

- Legal Backdrop
- Labor Relations Landscape at PERB
- Recent PERB Decisions Impacting Collective Bargaining
- Economic Considerations in Preparing for Collective Bargaining

Legal Backdrop

Educational Employment Relations Act (EERA)

- Government Code § 3540 et seq.
 - Employees have the right to:
 - Organize collectively; be represented by labor organization; present grievances to district.
 - Labor organization right to:
 - Represent members in regard to wages, hours and terms and conditions of employment.
 - PERB has the jurisdiction to:
 - Hear disputes arising out of EERA / employer-employee relations.

Scope of Representation

- Wages, hours, and other terms and conditions of employment are:
 - Not matters within inherent management rights.
 - Typical subjects include wages, benefits, hours, leaves, transfers, reassignments, evaluation, discipline and grievance procedures.
 - Impacts and effects of managerial decisions.

Labor Relations Landscape

The Labor Relations Landscape

- A Rise In PERB Litigation since 2001.
- FY 2014/15 PERB Statistics:
 - 272 UPCs under EERA (695 total).
 - 23 EERA/HEERA factfinding requests approved.
 - 102 EERA/HEERA contract impasses (SMCS).
 - 215 EERA/HEERA Grievance/Discipline (SMCS).
- Impasse, Grievances, Disciplinary Appeals under EERA/HEERA outpace those under other labor relations statutes.

Recent PERB Decisions Impacting Collective Bargaining

Union Right to Information

- *Los Angeles Unified School District (2015)*
PERB Decision No. 2438-E, 40 PERC ¶ 26.
 - District violated EERA by conditioning complying with union request for names and work locations of reassigned unit members on the employee agreeing that such information could be provided. Employee privacy interests outweighed by union need for information to adequately represent its members.

Right to Representation

- *Sonoma County Superior Court (2015) PERB Dec. No. 2409-C*
 - Right to representation in all matters of employer-employee relations includes right to have a union member present upon employee request at an interactive process meeting. (*Overruling, Trustees of California State University (2006) PERB Dec. No. 1853.*)

Concerted Activity

- *Los Angeles Community College District* (2014) PERB Dec. No. 2404
 - Directive to employee placed on admin leave pending a Fitness for Duty Exam, not to contact faculty members, staff or students about the subject of the letter, violated EERA, constituting unlawful interference with protected rights.

Protected Activity

- *Berkeley Unified School District (2015)* PERB Dec. No. 2411
 - Employee's filing curriculum complaint is protected activity.
- *Santa Clara Valley Water District (2013)* PERB Dec. No. 2349-M
 - Employee's status as a union official is enough, by itself, to constitute a protected activity.

Economic Considerations in Preparing for Collective Bargaining

Economic Considerations in Preparing for Collective Bargaining

- **Be Prepared**

- Identify and be conversant with District's fiscal condition.
- Understand revenue sources and funding allocations.
- Identify and be able to explain District's unfunded liabilities.
- Gather financial data.
- Comparability survey and/or cost of living data.
- Develop objectives based on fiscal condition.
- Work with staff and board to develop realistic bargaining parameters
- Be aware of 50% law

Economic Considerations in Preparing for Collective Bargaining

- **Be Transparent**

- Hold budget workshops for employees & the public.
 - **Important: Use a 5-year forecast!**
- Allow employees on all shifts to attend.
- Invite labor representatives.
 - Even if don't attend, stress INFORMATIONAL meeting only
- Make information easy to explain and share.
- Avoid appearance of direct dealing.
- Respond to information requests *promptly, accurately, and completely.*

Economic Considerations in Preparing for Collective Bargaining

Be Data Driven

- Know cost of each CBA
- Know cost of each provision
- Know 1% figure
- Pension cost predictions
 - Actuarial rates
 - Unfunded liabilities
- Health care insurance trends

Economic Considerations in Preparing for Collective Bargaining

Be Data Driven

- Consider doing a salary or total compensation survey
 - Negotiations preparation
 - Determining the market
 - Costing
 - Fact-finding preparation
 - Manages expectations
 - Determining strengths and weaknesses of positions in bargaining

Economic Considerations in Preparing for Collective Bargaining

Be Data Driven

- Factors to consider in determining survey market:
 - Recruitment and Retention Data
 - Geographic Area
 - Similar Size
 - Similar Services
 - Similar budget and funding sources
 - Comparison to Average or Median
 - Past practice

Economic Considerations in Preparing for Collective Bargaining

- **Key Economic Areas**
 - Associate faculty salaries and benefits in relation to full time.
 - Health and welfare benefits.
 - Real cost of living in some areas vs. COLA.
 - New PERS focus on PERS compensable earnings as they conflict with existing CBA language.

Tips for Success

- Be honest, credibility is key.
- Set professional / collegial tone.
- Resolve ground rules early.
- Be Transparent.
- Respond to information requests *promptly, accurately, and completely*

Thank You!

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