

PUBLIC EMPLOYMENT RELATIONS BOARD



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



December 7, 2007

Gregg McLean Adam, Attorney
Carroll, Burdick & McDonough
44 Montgomery Street, Suite 400
San Francisco, CA 94104

Paul M. Starkey, Labor Relations Counsel
Department of Personnel Administration
1515 "S" Street North Building, Suite 400
Sacramento, CA 95811-7258

Re: California Correctional Peace Officers Association v. State of California (Department of Personnel Administration)
Unfair Practice Charge No. SA-CE-1621-S

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 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 Regulation 32644(b). If you have not filed a Notice of Appearance form, one should be completed and returned with your ANSWER.

Also enclosed is a Notice of Informal Conference informing you that an informal settlement conference has been scheduled. If you are unable to meet on the date specified, please follow the instructions in the second paragraph of the notice. All inquiries, filings, and correspondence in this matter should be directed to me.

Sincerely yours,

Roger Smith
Labor Relations Specialist

Enclosures

RECEIVED

DEC 10 2007

CARROLL, BURDICK & MCDONOUGH

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Copies may be purchased from PERB's Publications Coordinator, 1031 18th Street, Sacramento, CA 95814-4174, and the text is available at www.perb.ca.gov.

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD



CALIFORNIA CORRECTIONAL PEACE
OFFICERS ASSOCIATION,

Charging Party,

v.

STATE OF CALIFORNIA (DEPARTMENT OF
PERSONNEL ADMINISTRATION),

Respondent.

Case No. SA-CE-1621-S

COMPLAINT

It having been charged by Charging Party that Respondent engaged in unfair practices in violation of California Government Code section 3519, the General Counsel of the Public Employment Relations Board (PERB), pursuant to California 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 a recognized employee organization within the meaning of Government Code section 3513(b) of an appropriate unit of employees.
2. Respondent is the State employer within the meaning of Government Code section 3513(j).
3. During the period from April 13, 2006 through May 17, 2007, the Charging Party and Respondent were meeting and conferring with regard to a successor memorandum of understanding (MOU) pursuant to Government Code section 3517. During the period including May 17, 2007 through September 17, 2007, the parties were engaged in mediation pursuant to Government Code section 3518.

4. On or about September 18, 2007, Respondent informed Charging Party that Respondent was “exercising its right to implement all three years of its last, best and final offer,” subject only to “Legislative funding of expenditures.”

5. By implementing terms and conditions for a three-year duration, Respondent acted contrary to the provisions of Government Code sections 3517 and 3517.8, and thus violated Government Code section 3519(c).

6. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3519(a).

7. This conduct also denied Charging Party its right to represent bargaining unit employees in violation of Government Code section 3519(b).

8. On or about September 18, 2007, Respondent informed Charging Party that its unilateral imposition of terms and conditions of employment did not include the continuation of State Vice-Presidents leave, as set forth at Article 2, Section 2.11, of the parties’ expired MOU. The omission of this provision was not reasonably comprehended within the meaning of the last, best, and final offer presented by the Respondent prior to the implementation.

9. By the acts and conduct described in paragraph 8, Respondent failed and refused to meet and confer in good faith with Charging Party in violation of Government Code section 3519(c).


10. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3519(a).

11. This conduct also denied Charging Party its right to represent bargaining unit employees in violation of Government Code section 3519(b).

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

DATED: December 7, 2007

TAMI R. BOGERT
General Counsel

By 

Les Chisholm
Division Chief

party must be stated. (Reasonable attempts should have been previously made to coordinate those dates with the calendar of the undersigned; and

5. The alternate dates must fall within 20 calendar days of the date the conference was originally scheduled.

If all of the above-listed conditions are not met, the written request must set forth good cause for the failure to comply with this directive.

At the conference, the parties should be prepared to reach a settlement agreement or reduce the number of outstanding issues. If no settlement is reached, a formal hearing will be scheduled by the PERB. Parties should be prepared at the conference to submit at least three sets of proposed dates for formal hearing.

All communications concerning the further processing of this case should be addressed to the undersigned at PERB, 1031 18th Street, Sacramento, CA 95811-4124; (916) 327-8387.

DATED: December 7, 2007

By  _____
Roger Smith
Labor Relations Specialist

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, 1031 18th Street, Sacramento, CA 95811-4124.

On December 7, 2007, I served the LETTER, COMPLAINT and NOTICE OF INFORMAL CONFERENCE regarding Case No. SA-CE-1621-S on the parties listed below by

placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid.

personal delivery.

facsimile transmission in accordance with the requirements of PERB Regulations 32090 and 32135(d).

Gregg McLean Adam, Attorney
Carroll, Burdick & McDonough
44 Montgomery Street, Suite 400
San Francisco, CA 94104

Paul M. Starkey, Labor Relations Counsel
Department of Personnel Administration
1515 "S" Street North Building, Suite 400
Sacramento, CA 95811-7258

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 7, 2007, at Sacramento, California.

Anna Quintero
(Type or print name)


(Signature)