

RESOLUTION NO. 7
Reinstating the Legal Department Update and
the Quarterly Law Newsletter

WHEREAS, the California School Employees Association (CSEA) provides for the legal analysis on Association matters, including, but not limited to proposed action by the Board of Directors, contracts and proposed legislation, and

WHEREAS, member-leaders provide frontline representation on most matters within the scope of representation, and

WHEREAS, the Public Employment Relations Board (PERB) issued 92 decisions in the 2018-2019 fiscal year, and

WHEREAS, of those 92 cases, CSEA was a party to 8 of those cases, and

WHEREAS, there are 45 pending cases before PERB for the 2019-2020 fiscal year docket, and

WHEREAS, of those 45 cases, CSEA is a party to 2 of those cases, and

WHEREAS, CSEA has previously provided to staff and member-leaders "Legal Reviews" of PERB decisions in previous years, and

WHEREAS, many PERB decisions have an impact on CSEA members and the Association, and

WHEREAS, knowledge is power and the more information that staff and member-leaders have at their disposal, better, well informed decisions can be made in the interest of our members.

BE IT THEREFORE RESOLVED: That the Association be directed to reinstate the "Legal Department Update"; subject, "PERB Update of Unfair Labor Practice Decisions" and the Quarterly "Member Law" Newsletter, through CSEA's legal department, to include regular legal analysis of PERB and other court decisions and pending cases that may have an impact on classified employees, their employer, or the Association to be provided to all member-leaders and field staff.

Certified February 3, 2020, postmark
Monica Han, Association Secretary

Submitted by Santa Maria Elementary
Chapter 129, Area I, Region 37
Approved at January 21, 2020
Chapter Meeting

/s/ Matthew Harris, Chapter President

/s/ Jennifer Escobedo,
Chapter Secretary

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3 **Author's Statement**

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5 CSEA has provided legal analysis in the past of legal decisions and other legal matters
6 that affect CSEA members and the Association. This review was prepared by the legal
7 department and this information was shared with member-leaders and Labor Relations
8 Representatives, as well as many others in CSEA. It is unclear why CSEA ceased
9 providing this very valuable information to staff and member-leaders, but it was likely
10 due to cost savings during the great recession.

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12 School districts and community college districts often utilize legal consultation to
13 prepare for grievances, negotiation, PERB charges and other business matters. While
14 CSEA maintains our own in-house attorneys, chapters do not have direct access to
15 counsel. Legal questions and opinions are passed through the Labor Relations
16 Representative to the lawyers and then back down to the member-leader. Sometimes it
17 is a single question that may take days to get an answer. Many member-leaders are
18 good at researching legal questions, while others look to the Association to give them
19 guidance. I believe these updates will benefit everyone.

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21 In the 2018/2019 PERB docket, there were ninety-two cases, eight of which named
22 CSEA as a party. In the 2019/2020 PERB docket, there are as many as forty-five cases
23 before the board, two of which CSEA was a named party. At no time during 2018 or
24 2019 were these cases discussed with member-leaders, beyond perhaps the involved
25 parties. Every case under the name CSEA is a case that involves all of CSEA. We
26 represent over 250,000 members throughout California and each of us have a stake in
27 what our legal department does at PERB or in court.

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29 An example of some of the legal updates provided by CSEA's legal department include,
30 October 25, 1991, from Margie Valdez, subject line, "Persian Gulf Holiday". This case,
31 CSEA v Governing Board of San Leandro Unified School District, was a win for CSEA
32 that awarded holiday pay to employees of the SLUSD for days declared by then
33 President Clinton commemorating our victory in Persian Gulf war.

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35 Another example is June 25, 1999, from Maureen Whelen, subject line, "Legal Update
36 East Side Union High School District v. PERB, and CSEA". This was a huge victory of
37 CSEA from the Court of Appeals. The case centers around cafeteria positions losing
38 benefits as they became vacant. The appeals case, which named both CSEA and
39 PERB as parties, upheld PERB's own ruling in the case that found that ESUHSD
40 committed an unfair labor practice when it did not negotiate with CSEA over the
41 changes to benefits for vacant positions. It was previously decided by PERB that
42 changes to benefits based primarily on labor cost savings was negotiable.

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44 Another example is March 6, 2000, from Alan Hersh, subject line, "CSEA's right to
45 home addresses and telephone numbers of all non-managerial employees." This legal
46 update addressed a PERB proposed regulation that CSEA fought against, and PERB
47 eventually withdrew it. It had to do with releasing contact information of non-managerial
48 employees to the Association. Extensive research went into this particular PERB
49 hearing where CSEA submitted testimony and written comments.

1 *Resolution No. 7 (continued)*

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3 As a member-leader, I find this kind of information invaluable. It adds value to our
4 membership. If there is a legal question in the South, you can bet that they have a
5 similar question in the North. The information shared through these updates can help
6 leaders make a more informed decision. It also provided a look inside our legal world of
7 labor and education employees. Every dollar spent on legal analysis and case litigation
8 is shared by all CSEA members.

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10 All the more reason to share the information on a regular basis.

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12 **Committee Analysis and Recommendation:**

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14 Resolution No. 7 proposes that CSEA “reinstate the “Legal Department Update”;
15 subject “PERB Update of Unfair Labor Practice Decisions” and the Quarterly
16 “Member Law” Newsletter, through CSEA’s legal department to provide legal
17 analysis of PERB and other court decisions that may impact classified
18 employees, their employer or the Association, and provide to all member-leaders
19 and field staff.

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21 **Budget Impact:** This resolution as submitted is not clear if the Legal Newsletter
22 would be a printed newsletter. However, Resolution No. 7 proposes that CSEA
23 “reinstate the “Legal Department Update”; “PERB Update of Unfair Labor
24 Practice Decisions” and the Quarterly “Member Law” Newsletter. The costs
25 associated with printing and mailing a quarterly, hard copy newsletter to 1,300
26 member leaders and staff would impact the budget by \$3,172. The financial
27 impact is minimal and has no bearing on the recommendation.

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29 The committee received input from the legal department, who is also looking at
30 Resolution 7.

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32 The committee feels that reinstating a “newsletter” is a step backward as a mass
33 mailing is not timely due to the time necessary for printing. In addition, it was felt
34 that through the mail, it could potentially fall into the hands of anti-worker/anti-
35 union groups and used to the detriment of the Association. The decisions made
36 by PERB are currently included in “Leadership Mail” and placed on the website.

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38 Additionally, the committee realizes that the Field Office Staff receive updates in
39 real time and are the best resource for the member-leaders of CSEA concerning
40 PERB decisions that impact our members.

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42 The committee recognizes the need for an analysis on decisions, with a
43 centralized location on the CSEA website with a searchable database.

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45 The Communications Committee recommends a NO vote on Resolution 7 (2020).
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