

**STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD**



TRANSPORT WORKERS UNION OF AMERICA  
LOCAL 250, SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 1021,  
INTERNATIONAL ASSOCIATION OF  
MACHINISTS LOCAL 1414, INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL WORKERS  
LOCAL 6, TRANSPORT WORKERS UNION  
LOCAL 200,

Charging Parties,

v.

CITY & COUNTY OF SAN FRANCISCO,

Respondent.

Case No. SF-CE-827-M

PERB Decision No. 2540a-M

November 15, 2019

Appearances: Law Office of Kenneth C. Absalom by Kenneth C. Absalom and James A. Achermann, Attorneys, for Transport Workers Union of America Local 250; Weinberg, Roger & Rosenfeld by Alan Crowley, Attorney, for Service Employees International Union Local 1021 and International Association of Machinists Local 1414; Leonard Carder by Peter Saltzman, Attorney, for International Brotherhood of Electrical Workers Local 6; Neyhart, Anderson, Flynn & Grosboll by Benjamin K. Lunch, Attorney, for Transport Workers Union Local 200; Meyers, Nave, Riback, Silver & Wilson by Arthur A. Hartinger, Attorney, for City & County of San Francisco.

Before Banks, Shiners, and Paulson, Members.

DECISION

BANKS, Member: This case is before the Public Employment Relations Board (PERB or Board) after the Court of Appeal for the First Appellate District issued its unpublished opinion and order in *City and County of San Francisco v. Public Employment Relations Board* (Cal. Ct. App., July 22, 2019, No. A152913, 2019 WL 3296947). Pursuant to the Court of Appeal's order, as discussed below, we vacate in part *City & County of San Francisco* (2017)

PERB Decision No. 2540-M (*San Francisco*), and issue a modified remedial order in this matter.

In *San Francisco, supra*, PERB Decision No. 2540-M, we concluded that the City and County of San Francisco (City) violated the Meyers-Milias Brown Act (MMBA) and PERB Regulations.<sup>1</sup> Among other remedies, we declared void parts of City Charter sections 8A.104 subdivision (o) and 8A.104 subdivision (q), as adopted through Proposition G.

In its opinion and order, the Court of Appeal set aside those parts of our original decision and order that invalidated the first, second, and fourth sentences of City Charter section 8A.104, subdivision (o), and the first three sentences of City Charter section 8A.104, subdivision (q). The opinion left unchanged that part of our decision and order invalidating the third sentence of City Charter section 8A.104, subdivision (o), and the fourth sentence of City Charter section 8A.104, subdivision (q).

In accordance with the First District's opinion, we hereby VACATE the discussion and related conclusions of law in *San Francisco, supra*, PERB Decision No. 2540-M, addressing the first, second, and fourth sentences of City Charter section 8A.104, subdivision (o), and the first three sentences of City Charter section 8A.104, subdivision (q). The remainder of the decision shall remain in effect. We also vacate our original order and issue the following modified order in this matter.

Pursuant to section 3509, subdivision (a) of the Government Code, it is ORDERED that the City and its representatives shall:

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<sup>1</sup> The MMBA is codified at Government Code section 3500 et seq. PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

A. CEASE AND DESIST FROM:

1. Adopting or enforcing unreasonable regulations in the form of the third sentence of section 8A.104, subdivision (o), and the fourth sentence of subdivision (q) of the City Charter, as adopted through Proposition G.

2. Interfering with bargaining unit members' right to participate in the activities of an employee organization of their own choosing.

3. Denying Transport Workers Union of America Local 250-A, Transport Workers Union Local 200, International Brotherhood of Electrical Workers, Local 6, Service Employees International Union Local 1021, and International Association of Machinists and Aerospace Workers Local 1414 (the Unions) their right to represent employees in their employment relations with the City.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE MMBA:

1. Within ten (10) workdays of service of the decision in this matter, post at all work locations in the City, where notices to employees customarily are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the City, indicating that the City will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material. In addition to physical posting of paper notices, the Notice shall be posted by electronic message, intranet, internet site, and other electronic means customarily used by the City to communicate with its employees.

2. Within thirty (30) workdays of service of the decision in this matter, notify the General Counsel of PERB, or his or her designee, in writing of the steps taken to

comply with the terms of this Order. Continue to report in writing to the General Counsel, or his or her designee, periodically thereafter as directed. All reports regarding compliance with this Order shall be served concurrently on the Unions.

Members Shiners and Paulson joined in this Decision.



**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD  
An Agency of the State of California**

After a hearing in Unfair Practice Case No. SF-CE-827-M, *Transport Workers Union of America Local 250-A, Transport Workers Union Local 200, International Brotherhood of Electrical Workers, Local 6, Service Employees International Union Local 1021, and International Association of Machinists and Aerospace Workers Local 1414 v. City & County of San Francisco*, in which all parties had the right to participate, it has been found that the City & County of San Francisco (City) violated the Meyers-Milias-Brown Act (MMBA), Government Code section 3507, and PERB Regulation 32603, subdivision (f) (Cal. Code Regs., tit. 8, sec. 31001, et seq.), when it adopted or enforced an unreasonable regulation in the form of City Charter section 8A.104, specifically the third sentence of subdivision (o), and the fourth sentence of subdivision (q), as contained in Proposition G. This conduct also violated the MMBA, Government Code section 3506, and PERB Regulation 32603, subdivision (a), by interfering with the right of bargaining unit members to participate in an employee organization of their own choosing, and Government Code section 3503 and PERB Regulation 32603, subdivision (b), by denying the Transport Workers Union of America Local 250-A, Transport Workers Union Local 200, International Brotherhood of Electrical Workers, Local 6, Service Employees International Union Local 1021 and International Association of Machinists and Aerospace Workers Local 1414 (collectively, Unions) their right to represent employees in their employment relations with the City.

As a result of this conduct, we have been ordered to post this Notice and we will:

A. CEASE AND DESIST FROM:

1. Adopting and enforcing unreasonable regulations in the form of City Charter section 8A.104, specifically the third sentence of subdivision (o) [unlawfully requiring the Unions to “prove by clear and convincing evidence that the justification for such restrictions outweighs the public’s interest in effective, efficient, and reliable transit service and is consistent with best practices”], and fourth sentence of subdivision (q) [unlawfully mandating the expiration of all side-letters no later than the expiration of the MOU], as adopted through Proposition G.

2. Interfering with bargaining unit members’ right to participate in the activities of an employee organization of their own choosing.

3. Denying the Unions their right to represent employees in their employment relations with the City.

Dated: \_\_\_\_\_

CITY & COUNTY OF SAN FRANCISCO

By: \_\_\_\_\_

Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.