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October 8, 2019

Via Electronic Email Only

Public Employment Relations Board
Kristina Gonzalez, Assistant to the Board
kristina.gonzalez@perb.ca.gov

In Regards to PERB Regulation Amendments – Mastagni Holstedt Comments

Dear Board:

On behalf of Mastagni Holstedt, A.P.C., please find our firm's comments on the proposed changes to the regulations governing recusals and filing requirements.

Recusals

Regulation 32155(a)(4)(A) and (B) provide for a "one year" period under which personnel, Board members, and Legal Advisors (hereafter "PERB Representatives") are obligated to recuse themselves. However, the one-year period does not cure any actual conflict under the circumstances enumerated in (i)-(iii).

The language should state recusal is required for personnel, Board members, and Legal Advisors if at any time he or she was involved in the circumstances outlined in (i)-(iii).

Filing Regulations

Regulation 32140 Service; Proper Recipient

Subdivision (d), subsection (D) provides for service in the case of a public agency employer and limits proper service Subdivision (d), subsection (D) provides for service in the case of a public agency employer and limits proper service to the "individual designated to receive service or the chief executive officer." The requirement may inhibit

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employee organizations from effectuating proper service. The change does not create clarity because it leaves confusion as to who is authorized to accept service. Similarly, subsections (E)-(G) leave ambiguity as to who the “individual designated to receive service” is for employee organizations or individuals attempting to effectuate proper service.

Regulation 32700 - Proof of Support

The changes increase the burden on employee organizations seeking status as the exclusive representative by requiring original documentation and signatures.

Sincerely,
MASTAGNI HOLSTEDT, A.P.C.

A handwritten signature in black ink that reads "Kathleen Storm". The signature is written in a cursive, flowing style.

KATHLEEN N. MASTAGNI-STORM
Attorney at Law

KNS/prb