

December 30, 2019

Julie Su, Secretary
California Labor and Workforce Development Agency
800 Capitol Mall, Suite 5000
Sacramento, CA 95814

Dear Ms. Julie Su,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Public Employment Relations Board submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Joshua Golka, Executive Director, at (916) 322-5289, joshua.golka@perb.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The Public Employment Relations Board (PERB) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers the collective bargaining statutes, ensures their consistent implementation and application, and adjudicates labor relations disputes between the parties. PERB administers eight labor relations statutes as well as the Public Employee Communications Chapter (PECC) (Government Code § 3555 et seq.)—a law designed to provide effective and meaningful ways for exclusive representatives to communicate with their bargaining unit members and the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD), which is codified at Chapter 11 of Title 1 of the Government Code, section 3550 et seq.

PERB is responsible for maintaining labor harmony between the State's public employers and more than 2.5 million employees of California's public schools, colleges, and universities; employees of the State of California; employees of California local public agencies (cities, counties and special districts); trial court employees; trial court interpreters; in-home service providers; and supervisory employees of the Los Angeles County Metropolitan Transportation Authority. PERB is administered by a five-member Board appointed by the Governor and confirmed by the State Senate and plays a crucial role in resolving labor disputes.

Headquartered in Sacramento, PERB maintains three regional offices in Glendale, Oakland, and Sacramento. There are four Divisions that report to the appointed Board. These include the Office of the General Counsel, Division of Administrative Law, Division of State Mediation and Conciliation Service, and the Division of Administration. The Division of State Mediation and Conciliation Service was transferred from the Department of Industrial Relations in July 2012 to complement the promotion of harmonious labor-management relations.

Maintaining the capacity to timely resolve labor disputes is vital for PERB to achieve its mission. In its quasi-judicial role, PERB staff demonstrate integrity and neutrality in the operation and administration of their roles. PERB's major functions include:

- Conduct elections to determine whether employees wish to have an employee organization exclusively represent them in their labor relations with their employer.
- Remedy unfair practices, whether committed by employers or employee organizations.
- Investigate impasse requests that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures.
- Ensure that the public receives accurate information and has the opportunity to register opinions regarding the subjects of negotiations between public sector employers and employee organizations.
- Interpret and protect the rights and responsibilities of employers, employees, and employee organizations under the statutory schemes.
- Bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings.

These services are performed statewide by over 70 staff.

Control Environment

PERB's four divisions - the Office of the General Counsel, Division of Administrative Law, Division of State Mediation and Conciliation Service, and the Division of Administration - report to the Board through the Executive Director. The core management team of PERB is comprised of the Executive Director, General Counsel, Chief Administrative Law Judge, Chief of the State Mediation and Conciliation Service and the Deputy Executive Director as the head of the Division of Administration. The team meets regularly to discuss operational activities and monitor performance.

Management establishes and demonstrates integrity and ethical values by modeling the behavior expected of PERB staff - leading by example. As an organization comprised largely of attorneys and administrative law judges, many of PERB's managers and staff are bound by the California State Bar Code of Ethics. In addition, all staff is required to take Ethics Training for State Officials every two years.

PERB policies, processes and procedures are maintained electronically on our intranet and department specific shared electronic drives and in regularly updated desk manuals and procedure guides. The management teams work with their respective managers to ensure the efficient and effective functioning of each of the respective divisions. This includes maintenance of a competent workforce through effective recruitment of applicants through thoughtful posting of job descriptions, duty statements and requests for statements of qualification to ensure optimal fit in both the role and with the organizations. The effort continues with proper onboarding and continuous training as well as the regular evaluation and management of workloads and performance. Management evaluates staff performance through both probationary reports, annual performance reviews and ad hoc reviews of specific projects.

Information and Communication

PERB's management team are actively engaged in facilitating the collection and communication of information needed for operational, programmatic and financial decision making. All staff are

encouraged to discuss and consult with their division heads if they discover issues that need to be addressed as well as to share information they feel can be used to improve PERB processes.

In addition to regularly scheduled meetings within each Division, project specific meetings are scheduled with key agency personnel to share information and monitor progress. Ad hoc meetings are conducted for specific projects and issues on an as needed basis. The management team consults with the Labor and Workforce Development Agency on a regular basis and with external stakeholders when necessary.

The Division of Administrative Services provides department-wide emails on policies, procedures, and other subject matter that crosses all programs as well as maintaining a department-wide intranet. Division specific information is available within specified electronic drives, including program specific handbooks, and desk manuals.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Public Employment Relations Board monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Joshua Golka, Executive Director.

PERB uses regular meetings, monthly reporting on key performance indicators in each division, regular assessments by internal and external reviewers and ad hoc reviews as needed for specific projects or related to specific issues.

The Management team discusses identified risks and opportunities, evaluates the potential impacts and monitors the status of any mitigation efforts on an ongoing basis. Ownership of mitigation efforts is assigned and monitored through the management team. PERB's management team and IT personnel are engaged in addressing the problems and opportunities identified in PERB's risk management processes.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Public Employment Relations Board risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, audit/review results, other/prior risk assessments, external stakeholders, consideration of potential fraud, performance metrics, and other.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Outdated Legacy Case Management System

PERB's legacy case management system is outdated. The Structured Query Language (SQL) platform is no longer supported and the source code unavailable due to a previous change in Information Technology (IT) contractors. As a result, system updates and support are no longer available.

Control: ePERB - New Case Management System

PERB has recently gone live with a new case management system, ePERB, in order to eliminate the risk presented by the obsolete legacy system. PERB will maintain access to the legacy system for a minimum of one year in order to ensure a smooth transition to the new system. The legacy system will be kept for insurance against data migration errors.

Risk: ePERB Implementation

The transition to a new case management system, ePERB, was necessary to eliminate risks presented by the legacy system. This transition poses potential risks related to data conversion from the legacy system to ePERB as well as risks presented by staff in learning and using the new system. Additionally, funding to support the cloud-based system came from salary savings and therefore an ongoing source of funding is needed. PERB obtained authorization from the California Department of Technology to proceed with a commercial off the shelf solution.

Control: 90-Day Support

PERB is currently in an initial 90-day support window with the case management system provider's production team. PERB subject matter experts report any identified issues with the ePERB system directly to the vendor's production team, who are then responsible for addressing those issues. Once the 90 days expire, an assessment of the remaining issues occurs and a determination as to whether it is a good time to transition PERB to the vendor's support team is made. At that time, hand-off meeting will be held with the vendor support team, who becomes the main point of contact for issues reported after the hand-off.

Control: Staff Training

PERB conducted multiple vendor-led staff training sessions at each of the regional offices in order to familiarize staff with the functionality and use of ePERB. In addition, PERB subject matter experts in each of our divisions are available as a resource for staff to consult as needed with questions on the new system.

Risk: IT Infrastructure and Operations

Recent assessments have revealed challenges related to PERBs information technology infrastructure and operations, including deficiencies in software and hardware, as well as the need for an examination of information technology staffing requirements. Aging hardware and software resulting from divergent budget priorities over several fiscal years and a lack of information technology specific investment has resulted in IT network and server infrastructure issues that create security risks. In addition, until

recently PERB had no on-staff IT personnel and despite the addition of a single position, concerns remain about the capacity to address IT related issues without additional support.

Control: Infrastructure Architecture Analysis

Under the guidance of the Labor and Workforce Development Agency, PERB is in the process of working with a vendor on a comprehensive infrastructure architecture analysis to identify vulnerabilities and gaps in our network and server infrastructures. Through this analysis, a twelve-month roadmap will be created to identify actions and resources necessary to achieve the recommended IT infrastructure end state.

Control: Information Technology Personnel Evaluation

PERB is currently working with the Labor and Workforce Development Agency to evaluate and determine appropriate information technology staffing requirements for the organization.

Risk: Staff - Key Person Dependence, Workforce Planning

PERB relies heavily on specific individuals with significant expertise and knowledge in key areas. This creates vulnerabilities for the Board when those individuals become temporarily or permanently unavailable. A small overall workforce creates challenges in cross-training back ups as well as turnover issues as staff look to promote elsewhere due to a lack of upward mobility.

Control: Cross Training

Minimize key person dependence through increased cross-training. Provide cross-training for staff in critical areas including those crucial to core business functions, such as legal support in the Office of General Counsel and Administrative Law Divisions, as well as in the budget, accounting and procurement functions of the Division of Administration.

Control: Update, Implement and Monitor the Leadership Development and Succession Plan

PERB will update the Leadership Development and Succession plan in the first quarter of 2020 and begin implementation of developed strategies upon adoption. The plan will be continuously monitored, evaluated and changed as required to ensure effectiveness.

Risk: Workload Growth

Over the last several decades, resources to hire necessary staff did not keep pace with growth in PERB's workload that has resulted from increased statutory obligations and litigation. In 2018-2019, however, PERB used both a funding increase and the agency's Case Processing Efficiency Initiative to begin reducing backlogs. While significant challenges remain in achieving more timely dispute resolution, recent investments by the Administration and Legislature, including funds provided through a Department of Finance Mission Based Review, have helped PERB to hire much-needed staff at all levels. The risk remains that resources will not keep pace with workloads resulting from additional statutory obligations.

Control: Ongoing Caseload Monitoring and Reporting

PERB will continue to monitor and report caseload activity to the Labor and Workforce Development Agency, the Administration and the Legislature, as a means to communicate progress towards case processing timeline goals. PERB's new case management system, ePERB, will also facilitate the reporting of metrics designed to better identify workload growth and areas of operations needing attention.

Control: Continue Implementation of Case Processing Efficiency Initiative Recommendations

PERB continues to implement recommendations identified as part of the Case Processing Efficiency Initiative in order to prioritize use of available resources to make improvements to PERB's operations to increase efficiencies and effectiveness. Related rulemaking efforts undertaken as part of the Initiative to simplify processes and increase efficiency are underway and are expected to continue in 2020 and beyond.

Risk: Litigation

Litigation initiated by parties in response has increased as the Board's issuance of decisions has increased over the last fiscal year. As a result, litigation related workload for staff at the Board level and in the Office of the General Counsel has increased and is impacting other responsibilities, such as processing unfair practice charges.

Control: Monitor Workload Impacts and Triage Litigation Assignments

PERB will continue to monitor the impact of litigation projects on existing workloads for regional attorneys. Efforts to triage litigation related assignments in the Office of General Counsel have been useful, but have not eliminated the need to evaluate additional controls.

Control: Evaluate Operational Changes to Address Litigation Challenges

PERB is evaluating changes to operations and staffing structure of the Office of General Counsel to determine if changes could potentially positively impact workload and capacity issues.

Risk: San Francisco Regional Office Lease Expiration

As the expiration date nears for PERB's San Francisco Regional Office in Oakland, finding suitable space poses a risk to PERB's operations. Risks include internal impacts to PERB operations and employee morale as well as external impacts to stakeholders who appreciate the ease of access to PERB's regional office by public transit and relatively central location to the stakeholders served in the region.

Control: Coordination and Communication with Department of General Services and Department of Finance

PERB is working closely with the Department of General Services (DGS) and Department of Finance to identify and secure an appropriate space that meets the needs of the organization, our constituents and the State, far in advance of lease expiration to avoid unnecessary expense and/or delay.

Control: Internal Communication

PERB has organized an internal team consisting of a representative from each of the program areas (Office of General Counsel, Administrative Law Division, Board, and Division of Administration) that occupy the San Francisco Regional Office. This team will solicit input regarding needs, wants and preferences from each of their respective program areas, provide input to DGS regarding site selection and planning, as well as communicate relevant information to the staff of the San Francisco Regional Office.

CONCLUSION

The Public Employment Relations Board strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Joshua Golka, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency