



Metropolitan Cases

AFSCME Local 1902 v. Metropolitan (Public Employment Relations Board)

As previously reported, AFSCME Local 1902 filed an unfair practice charge on September 27, 2012, with the Public Employment Relations Board (PERB). The charge alleges Metropolitan violated the Meyers-Milias-Brown Act (MMBA) on July 13, 2012, by updating the employee evaluation process and deploying two new evaluation forms. As a result of these changes, Metropolitan's employee evaluation process is now referred to as *MyPerformance*. AFSCME alleges that by deploying *MyPerformance*, Metropolitan violated its obligation to meet and confer on issues within the scope of representation. PERB issued a complaint and Metropolitan filed an answer denying the alleged unfair labor practice. This matter was set for trial on August 12 and 13, 2013, but was placed in abeyance on the eve of trial due to settlement discussions. A settlement was signed on September 24. The agreement provides, *inter alia*: (a) that AFSCME employees will be placed on a common evaluation date per the parties' memorandum of understanding (MOU); (b) that the *MyPerformance* forms can continue to be used with modifications as agreed to by the parties; (c) that the existing MOU provisions regarding evaluations will continue to remain in effect unchanged; and (d) that the workforce will receive a memorandum from the General Manager reporting on the agreement and on *MyPerformance*, which occurred on October 31. In addition, the agreement requires AFSCME to withdraw the unfair practice charge, and a related grievance similarly challenging *MyPerformance*. On November 25, PERB notified the parties that

the charge has been withdrawn, the complaint is dismissed, and the case is closed. The Legal Department represented Metropolitan. (See General Counsel's May and September 2013 Activity Reports.)

AFSCME Local 1902 v. Metropolitan (Public Employment Relations Board)

On November 4, 2013, AFSCME Local 1902 filed an unfair practice charge with PERB. The charge alleges Metropolitan violated the MMBA by failing to adhere to two agreements implementing the AFSCME Classification Study. In particular, the charge alleges Metropolitan failed to slot employees into Instrumentation and Control Technician Specialist positions at four District facilities. Metropolitan will respond to the charge by lodging a position statement seeking a dismissal based on factual inaccuracies contained in the charge and based on the District's full compliance with the Memorandum of Agreement implementing the unit-wide classification study. Alternatively, Metropolitan will seek to have the charge placed into abeyance pursuant to PERB's deferral regulation, which requires the parties to use the negotiated grievance process before seeking PERB intervention. The Legal Department will represent Metropolitan in this matter.

Salmon Biological Opinion Litigation

The Ninth Circuit has scheduled oral argument in this case for February 10, 2014 in San Francisco. At this time, it is unknown which judges will be assigned to the panel. The court has set aside 20 minutes per side for oral argument. (See General Counsel's August 2013 Activity Report.)

Other Activities

Miscellaneous

Jill Teraoka and Robert Horton assisted the Water Resources Management Group in drafting comments on the Draft California Water Plan, Volume 1.

Cathy Stites and Robert Horton presented CEQA reform ideas to ACWA and California Municipal

Utilities Association (CMUA) staff and members at the CMUA offices and via webex meeting in support of the Legislative Services Section's outreach effort in preparation for the next legislative session.