

IMPASSE PROCEDURES

Mediation

Requests for impasse determination and the appointment of a mediator may be filed, pursuant to EERA, HEERA, and the Dills Act, with the appropriate regional office (PERB Regulation 32075). Requests must include the information specified in PERB Regulation 32792 and may be made using form PERB-1510. Requests may be filed jointly or by either party. If a request is filed unilaterally, a proof of service on the responding party must accompany the request.

PERB's role in the mediation process is to determine whether the parties have reached a point in their negotiations at which further meetings without the assistance of a mediator would be futile. When a unilateral request is filed, a Board agent will contact the responding party to ascertain their position regarding the request. Once PERB determines that an impasse exists, the case is referred to the State Mediation and Conciliation Service for the assignment of a mediator. The mediator then contacts the parties to schedule a mediation session. There is no cost to the parties for this service.

Factfinding

Under both EERA and HEERA, if a mediator is unable to effect a settlement, s/he may certify the dispute to factfinding for resolution. In addition to the mediator's certification, a copy of a letter from either party to the other requesting that the dispute be referred to factfinding must be filed with PERB to initiate the factfinding process. Once both of these documents are received, PERB will contact the parties.

The parties are required to file with PERB the name, address and telephone number of the persons who will serve as their factfinding panel members. In addition, a list of issues must be submitted either jointly or individually.

PERB has three major responsibilities in the factfinding process. First, PERB must insure that statutory timelines are either enforced or waived. Second, under current law, PERB appoints a neutral chairperson for the factfinding panel and contracts with that person for his/her costs, unless the parties select and agree to pay the chairperson. Third, PERB is responsible for maintaining a panel of qualified, acceptable, unbiased persons from which the parties may select a chairperson. These individuals must have at least five years of experience in labor/management relations.