

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION THREE

Trustees of the California State University v. Public Employment
Relations Board

Trustees of the California State University v. Public Employment Relations Board · No. B340818 · Decided
January 26, 2026

SUMMARY

The California Court of Appeal reviewed a Public Employment Relations Board decision concerning whether the California State University had a duty under the Higher Education Employer-Employee Relations Act to bargain over the effects of revised student vaccination requirements on faculty health and safety. The court held that substantial evidence supported an effects-bargaining duty, but found insufficient evidence that the university had implemented the policy or definitively refused to bargain when the unfair-practice charge was filed. The court set aside the finding that the university violated HEERA and remanded for effects bargaining.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Three
WRITING FOR THE COURT	Hanasono, J.; Egerton, Acting P. J.; Adams, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Three
DECIDED	January 26, 2026
DOCKET	B340818
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding on the California State University’s petition for writ of review of a Public Employment Relations Board decision finding that CSU violated the Higher Education Employer-Employee Relations Act by implementing a revised student vaccination policy without effects bargaining.
STANDARD OF REVIEW	PERB’s legal interpretation of HEERA is followed unless clearly erroneous; PERB’s factual findings are conclusive if supported by substantial evidence on the record as a whole; remedial orders are reviewed for abuse of discretion.

PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal opinion.
PARTIES	Trustees of the California State University v. Public Employment Relations Board

TOPICS

unfair labor practices collective bargaining labor law judicial review of agency action appellate procedure

PRACTICE AREAS

labor law administrative law employment law health law appellate procedure

QUESTIONS PRESENTED

1. Whether CSU's revised student vaccination policy had reasonably foreseeable effects on faculty health and safety requiring effects bargaining under HEERA despite existing ADA and FEHA accommodation procedures.
2. Whether substantial evidence supported PERB's finding that CSU had implemented the revised policy before CFA filed its unfair-practice charge.
3. Whether CSU violated its duty to bargain by offering to meet informally to clarify the policy's bargainable effects rather than immediately engaging in formal bargaining.
4. Whether PERB's make-whole remedy was supported after the violation finding was set aside.

HOLDINGS

1. A nonnegotiable student vaccination-policy decision is subject to effects bargaining when it has reasonably foreseeable effects on faculty health and safety, including effects on immunocompromised faculty; ADA and FEHA accommodation procedures do not eliminate the separate right to pursue those effects through collective bargaining.
2. PERB's finding that CSU implemented the revised policy before CFA filed its charge was not supported by substantial evidence; adoption of the policy and a stated effective date did not establish implementation absent concrete steps to carry it out.
3. An employer may satisfy its duty to seek clarification of an effects-bargaining demand through an informal exchange or meeting; formal bargaining at the bargaining table is not invariably required before the parties clarify whether a proposal concerns negotiable effects.

KEY QUOTATIONS

"Because we see no indication that the Legislature intended to allow employees to seek disability accommodations permitted by FEHA and the ADA only through individual negotiations, to the exclusion of collective bargaining, we conclude that substantial evidence supports the PERB's conclusion that the 2023 policy was a proper subject of effects bargaining." (20–21)

“We agree with the dissenting opinion in County of Orange that an employer may satisfy its duty to seek clarification either “at the bargaining table”—that is, by formally meeting and conferring—or through an informal exchange between parties.” (33)

“We affirm PERB’s finding that the student vaccine requirements are subject to effects bargaining, and we set aside its finding that CSU violated HEERA by refusing to engage in effects bargaining before implementing the 2023 vaccine policy.” (34)

FACTUAL BACKGROUND

CSU adopted Executive Order 803 on February 14, 2023, replacing a broader planned student vaccination policy with a policy requiring only hepatitis B vaccination for students under age 19 and recommending other vaccinations and tuberculosis screening. The California Faculty Association demanded bargaining based on foreseeable health and safety effects on immunocompromised faculty, while CSU denied that bargaining was required but offered to meet informally so CFA could explain its position. CFA declined the meeting and filed an unfair-practice charge before CSU had taken concrete steps to implement the revised policy.

PROCEDURAL HISTORY

The California Faculty Association filed an unfair-practice charge with PERB after CSU adopted a revised student vaccination policy and declined to engage in formal bargaining. An ALJ found a HEERA violation and ordered rescission of the policy, effects bargaining, and make-whole relief. PERB largely affirmed, modified the remedy, and ordered reimbursement for harm resulting from the violation. CSU petitioned for writ review, and the Court of Appeal affirmed that the policy was subject to effects bargaining but vacated the violation finding and associated remedy, remanding for effects bargaining.

DISPOSITION

other

REMAND INSTRUCTIONS

The matter is remanded for the parties to engage in effects bargaining concerning the reasonably foreseeable effects of the revised student vaccination policy. PERB’s finding that CSU violated HEERA and its make-whole remedy are vacated.

CASES CITED

- International Assn. of Fire Fighters, Local 188, AFL-CIO v. Public Employment Relations Bd. (2011) 51 Cal.4th 259, 276–277
- Boling v. Public Employment Relations Board (2018) 5 Cal.5th 898, 911–914
- County of Sonoma v. Public Employment Relations Board (2022) 80 Cal.App.5th 167, 178–180, 186
- City of Palo Alto v. Public Employment Relations Bd. (2016) 5 Cal.App.5th 1271, 1288
- Kern County Hospital Authority v. Public Employment Relations Bd. (2024) 100 Cal.App.5th 860, 876–877
- Palomar Health v. National Nurses United (2023) 97 Cal.App.5th 1189, 1202–1203

- Claremont Police Officers Assn. v. City of Claremont (2006) 39 Cal.4th 623, 630, 634
- El Dorado County Deputy Sheriff's Assn. v. County of El Dorado (2016) 244 Cal.App.4th 950, 956
- Emporium Capwell Co. v. Western Addition Community Organization (1975) 420 U.S. 50, 69
- International Union of Elec., Radio and Mach. Workers, AFL-CIO-CLC v. N.L.R.B. (D.C. Cir. 1980) 648 F.2d 18, 25 fn. 6
- Graphic Arts Internat., Union Local No. 280 v. N.L.R.B. (9th Cir. 1979) 596 F.2d 904, 911–912
- San Mateo City School Dist. v. Public Employment Relations Bd. (1983) 33 Cal.3d 850, 866
- Wentworth v. Regents of University of California (2024) 105 Cal.App.5th 580, 597
- Oconomowoc Residential Programs v. City of Milwaukee (7th Cir. 2002) 300 F.3d 775, 784
- Nunes v. Wal-Mart Stores, Inc. (9th Cir. 1999) 164 F.3d 1243, 1247
- County of Orange (2018) PERB Dec. No. 2594-M, pp. 27, 53–55
- Trustees of the California State University (2012) PERB Dec. No. 2287-H, p. 14, 20
- City of Sacramento (2013) PERB Dec. No. 2351-M, pp. 2, 29–30
- County of Santa Clara (2013) PERB Dec. No. 2321-M, pp. 13, 30–32
- Regents of the University of California (2023) PERB Dec. No. 2852-H, p. 18
- Pasadena Area Community College District (2011) PERB Dec. No. 2218, p. 2
- Rio Hondo Community College District (2013) PERB Dec. No. 2313-E, pp. 5, 12
- Healdsburg Union High School District and Healdsburg Union School District/San Mateo City School District (1984) PERB Dec. No. 375, pp. 8–10
- Bellflower Unified School District (2014) PERB Dec. No. 2385, p. 7
- City of Palo Alto (2017) PERB Dec. No. 2388a-M, pp. 33–34