



1991-92 Annual Report Edition

1989-1990

1990-1991

1991-1992

CONCILIATION EXPERIENCE

3,743 Negotiating Units
2,426 Contracts Negotiable
1,958 (80.46%) Settled without third party assistance
468 (19.54%) Brought to PERB for assistance

Of 493 Impasses resolved during 1989-90

152 (30.83%) settled by mediation
159 (32.25%) settled by mediation by fact-finder
41 (8.32%) settled by negotiations based on fact-finding report
43 (8.72%) settled by acceptance of fact-finding report
28 (5.68%) settled by post fact-finding conciliation
23 (4.67%) settled by arbitration
47 (9.53%) Closed for other reasons

REPRESENTATION ACTIVITY

155 Petitions received
64 Director's decisions
26 Board decisions
51 Board certifications
120 Petitions withdrawn
18 Elections involving 1,375 employees

CLARIFICATION/UNIT PLACEMENT CASES

39 Cases pending at beginning of year
34 Applications received
5 Director's decisions
0 Board decision
37 Withdrawn after conference
31 Cases pending at end of year

IMPROPER PRACTICES

485 Cases pending at beginning of year
746 Charges filed during year
119 ALJ decisions
51 Board decisions
533 Charges settled by agreement, withdrawn or closed
579 Cases pending at end of year

MANAGEMENT/CONFIDENTIAL CASES

35 Cases pending at beginning of year
99 Applications received
57 Director's decisions
1 Board decision
33 Withdrawn after conference
44 Cases pending at end of year

WORK STOPPAGES

0 Strikes

CONCILIATION EXPERIENCE

3,769 Negotiating Units
2,209 Contracts Negotiable
1,664 (75.33%) Settled without third party assistance
545 (24.67%) Brought to PERB for assistance

Of 486 Impasses resolved during 1990-91

183 (37.65%) settled by mediation
137 (28.19%) settled by mediation by fact-finder
63 (12.96%) settled by negotiations based on fact-finding report
32 (6.58%) settled by acceptance of fact-finding report
18 (3.70%) settled by post fact-finding conciliation
22 (4.53%) settled by arbitration
31 (6.38%) Closed for other reasons

REPRESENTATION ACTIVITY

161 Petitions received
55 Director's decisions
10 Board decisions
42 Board certifications
98 Petitions withdrawn
18 Elections involving 1,375 employees

CLARIFICATION/UNIT PLACEMENT CASES

31 Cases pending at beginning of year
24 Applications received
9 Director's decisions
0 Board decision
22 Withdrawn after conference
24 Cases pending at end of year

IMPROPER PRACTICES

579 Cases pending at beginning of year
839 Charges filed during year
139 ALJ decisions
54 Board decisions
660 Charges settled by agreement, withdrawn or closed
619 Cases pending at end of year

MANAGEMENT/CONFIDENTIAL CASES

44 Cases pending at beginning of year
69 Applications received
57 Director's decisions
1 Board decision
30 Withdrawn after conference
26 Cases pending at end of year

WORK STOPPAGES

4 Strikes

CONCILIATION EXPERIENCE

3,786 Negotiating Units
2,303 Contracts Negotiable
1,718 (74.6%) Settled without third party assistance
585 (25.4%) Brought to PERB for assistance

Of 480 Impasses resolved during 1991-92

216 (45.0%) settled by mediation
89 (18.5%) settled by mediation by fact-finder
56 (11.7%) settled by negotiations based on fact-finding report
24 (5.0%) settled by acceptance of fact-finding report
26 (5.4%) settled by post fact-finding conciliation
22 (4.6%) settled by arbitration
47 (9.8%) Closed for other reasons

REPRESENTATION ACTIVITY

123 Petitions received
34 Director's decisions
11 Board decisions
26 Board certifications
56 Petitions withdrawn
10 Elections involving 661 employees

CLARIFICATION/UNIT PLACEMENT CASES

24 Cases pending at beginning of year
20 Applications received
1 Director's decision
2 Board decisions
18 Withdrawn after conference
23 Cases pending at end of year

IMPROPER PRACTICES

619 Cases pending at beginning of year
967 Charges filed during year
160 ALJ decisions
66 Board decisions
667 Charges settled by agreement, withdrawn or closed
759 Cases pending at end of year

MANAGEMENT/CONFIDENTIAL CASES

26 Cases pending at beginning of year
67 Applications received
40 Director's decisions
0 Board decision
19 Withdrawn after conference
34 Cases pending at end of year

WORK STOPPAGES

2 Strikes*

*Under PERB investigation

Message . . .

(Continued from page 2)

budget cuts had made it necessary to eliminate these training opportunities for three years. With the difficult economic times in which we find ourselves, communication and information throughout the labor relations community is critical. We are planning another session this May in conjunction with the Taylor Law Conference and hope to continue these this year.

As many of you know, PERB's Directors and I, held a series of meetings from the fall into the final quarter of this year with many of our major client organizations. It was very valuable to hear from you as to what you were experiencing and how we were able to help meet the parties' needs.

As we closed this year, PERB was looking back at record growth in cases filed (25% growth in improper practices and 35% growth in impasses) over the last three to four years and record numbers in the volume of cases we are carrying into the new year in Representation, Conciliation and at the Board. As I look ahead, it is virtually certain that we will all face continuing pressure and challenge. I look forward to the opportunity afforded by this 25th year and the Conference to participate with many of you in an examination of the past as guidance for the future. Your input will be essential if we are to effectively address the problems and concerns facing public sector employers, unions and the employees they represent.

Pauline R. Kinsella

On the Lighter Side in Representation

Yes, it's been an interesting year.

We moved our main office (lost three files and found five others), re-established an office in New York City (yes, the Borough of Brooklyn is still part of the City) and staffed it with two administrative law judges (restoring the ALJ complement which we had three years ago). And, if that wasn't enough of a change in our status quo, we made major changes in our case handling practices and introduced the concept of "bifurcation," separating the conference from the hearing function.

Yes, it's been a challenging year.

As computers appeared, the secretaries had to start teaching the ALJs, "What's a diskette?" and to patiently quiet their screams, "Damn, I've lost it!" While this was all going on, we sustained a 15% increase in the number of improper practice charges filed, issued 15% more improper practice decisions, and held 30% more hearing sessions.

Yes, it's been a hectic year.

But, somehow, we survived and did it with style, I think. Hopefully, most of the pieces are now in place, most of the glitches have been smoothed out, and with bright, smiling faces we begin the next interesting, challenging and hectic year.

Conciliation . . .

(Continued from page 8)

Three major cities and the employee organizations representing their employees called upon PERB to assist in negotiations during fiscal 1991. In Buffalo, negotiations involving 1,000 police officers have been aided by a mediator; the 700 member white collar unit is involved in fact-finding and an impasse involving 1,000 firefighters was resolved through the issuance of an interest arbitration award. Rochester has been provided with a mediator in talks with its 610 police officers as well as in a general unit of over 1,400 employees represented by Council 66, AFSCME. In Syracuse, units of nearly 500 police and fire fighters sought the assistance of PERB in their failed negotiations with the City and ultimately had terms of a new agreement established through interest arbitration. Meanwhile, the City remains in mediation with a 350 member CSEA unit.

For fiscal year 1991, the Office of Conciliation processed 600 Demands for Arbitration under its Voluntary Grievance Arbitration Rules of Procedure. Another 290 arbitration demands were processed according to the arbitration rules established by New York State and AFSCME Council 82. The total of 890 arbitration cases processed in 1991 exceeds fiscal year 1990 by 19.3 percent. PERB also processed 43 petitions for compulsory interest arbitration involving police and fire fighter units. This represents a 19.4 percent increase over the petitions received in 1990 and is the largest number of filings in the last few years. Finally, PERB received 21 joint requests for Staff Grievance Mediation-Arbitration, representing a slight decline from fiscal 1990.

PERB NEWS

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New York State
Public Employment Relations Board
80 Wolf Rd., Albany, NY 12205-2604

Pauline R. Kinsella, *Chair*
Walter L. Eisenberg, *Member*
Eric J. Schmertz, *Member*
Rosemarie V. Rosen, *Executive Director*

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PERB DECISIONS

Board

Improper Practice

PUBLIC EMPLOYEES FEDERATION — STATE OF NEW YORK (DEPARTMENT OF SOCIAL SERVICES) The Board dismissed the charge that the State acted improperly in restricting a PEF's steward's access to unit employees at the worksite. The Board found the State's actions were not improperly motivated and that they did not interfere with the steward's ability to serve the unit's employees. A second aspect of the charge, which alleged that the State circulated a petition to remove the steward, was also dismissed for lack of credible evidence. (U-9495, 3/17/92)

AFSCME COUNCIL 66, o/b/o, AFSCME LOCAL 930 — ERIE COUNTY WATER AUTHORITY The Board dismissed the charge, affirming the decision of the ALJ that the alleged unilateral change in shift was a contract dispute beyond the Board's jurisdiction. (U-11326, 3/17/92)

MARVIN NORMAN CASID — UNITED FEDERATION OF TEACHERS, LOCAL NO. 2 The Board dismissed the charge and affirmed the finding after hearing of the ALJ that UFT, though not responsible for the medical arbitration process, had voluntarily assisted the employee throughout. (U-11508, 3/17/92)

RICHARD W. GLASHEEN — COUNTY OF SUFFOLK AND SUFFOLK COMMUNITY COLLEGE The Board affirmed the Director's dismissal of the charge on the basis that no facts were presented to establish the allegation that Mr. Glasheen's transfer violated his rights. (U-12230, 3/17/92)

THOMAS CONDE — SUFFOLK COUNTY BOCES III The Board affirmed the Director's dismissal of Mr. Conde's charge as untimely and legally deficient. The charge failed to present any facts to establish that BOCES discharged Mr. Conde for reasons which would violate the Act. (U-12497, 3/17/92)

Unit Placement

JAMESTOWN PROFESSIONAL FIREFIGHTERS ASSOCIATION — CITY OF JAMESTOWN The Board affirmed the Director's decision, arrived at after an investigation including a hearing, to dismiss the petition to return four assistant chiefs to the unit because they do not perform managerial duties. The finding was that as a matter of continuing practice, the assistant chiefs attend cabinet meetings and participate in policy level decision-making. (CP-204, 3/17/92)

Director

Improper Practice

NYS INSPECTION, SECURITY AND LAW ENFORCEMENT EMPLOYEES (COUNCIL 82) — STATE OF NEW YORK The Director dismissed the charge of Council 82 finding that it failed to prove the falsity of the State's response that it had not yet determined whether it would pay performance and longevity increments if a successor agreement was not reached before 3/31/92. (U-12379, 3/5/92)

CITY OF JOHNSTOWN — JOHNSTOWN POLICE BENEVOLENT ASSOCIATION The Director found the PBA's refusal to negotiate not in violation of the Act since the City's demand for deletion of non-mandatory items from the contract was itself a nonmandatory subject. (U-13222, 3/13/92)

ALJ DECISIONS

WARREN DEITZ, LOUISE BINNEY AND DAVID PLEETER — STATE OF NEW YORK (AUDIT AND CONTROL); PEF — STATE OF NEW YORK (AUDIT AND CONTROL) Kenneth J. Toomey found that the employer had violated the Act in regards to Pleeter by giving him a poor evaluation report in response to his engaging in protected activities. He dismissed all other causes of action involving the other charging parties. (U-10653/U-10768, 2/27/92)

NEW BERLIN FACULTY ASSOCIATION — NEW BERLIN CENTRAL SCHOOL DISTRICT Monte Klein found that the District violated the Act when it unilaterally changed its practice of extending the Memorial Day holiday by one day whenever the District's snow or emergency allotment had not been exhausted. He ordered the prior practice reinstated. (U-12502, 2/28/92)

LAWRENCE CARP — OSWEGO CITY SCHOOL DISTRICT David P. Quinn dismissed a charge which alleged that the District had terminated charging party's employment in retaliation for his efforts to form an employee organization. (U-12210, 3/2/92)

SHERRILL PBA — CITY OF SHERRILL Deborah A. Sabin found that the City violated the Act when it unilaterally implemented a procedure by which a hearing officer for Civil Service Law §75 disciplinary charges was selected. (U-12251, 3/3/92)

CSEA — TOWN OF CLARENCE Marilyn Dixon Zahm found that the Town violated the Act when it unilaterally implemented a change in the docking policy for tardiness without negotiating with CSEA. She ordered the offending policy rescinded. (U-12061, 3/5/92)

AFSCME, COUNCIL 66 — VILLAGE OF ENDICOTT Gordon R. Mayo dismissed a charge which alleged that the Village had violated the Act by failing to negotiate new hours of work for refuse workers. (U-10890, 3/11/92)

BUFFALO PBA — CITY OF BUFFALO Marilyn Dixon Zahm dismissed a charge which alleged that the City violated the Act when it transferred police officers out of the Detective Division, allegedly with improper motivation. (U-11603, 3/12/92)

CSEA — UNIFIED COURT SYSTEM; SUFFOLK COUNTY COURT EMPLOYEES ASSOCIATION — UNIFIED COURT SYSTEM Deborah A. Sabin dismissed two charges against the employer which alleged that it had violated the Act by unilaterally abolishing existing promotion units and creating one promotion unit for the employees represented by the respective unions. (U-11993/U-11997, 3/16/92)

Certifications

ENDICOTT TEACHERS ASSOCIATION has been certified to represent all teachers including long-term substitutes in the Union-Endicott Central School District. (C-3776, 3/17/92)

DANSVILLE NON-INSTRUCTIONAL EMPLOYEES ASSOCIATION has been certified to represent all noninstructional employees excluding those in various supervisory and finance positions in the Dansville Central School District. (C-3869, 3/17/92)

UNITED INDUSTRY WORKERS, LOCAL 424 has been certified to represent all employees in the positions of cleaners, custodians, groundskeepers and equipment operators in the West Hempstead Union Free School District. (C-3883, 3/17/92)

PERB Newsletter
NYS Public Employment Relations Board
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