



# Administrative Procedure

Number:	377
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Supercedes:	
Page:	1 of

**Subject:** UNFAIR LABOR PRACTICES

1.0. PURPOSE:

To establish the policy and procedures related to unfair labor practices.

2.0. ORGANIZATIONS AFFECTED:

- 2.1. Representatives of employee organizations which are elected by employees to be their exclusive representatives.
- 2.2. Bonified representatives of employee organizations.
- 2.3. University employees.

3.0. REFERENCES:

- 3.1. Government Code, Section, 3560ff (Higher Education Employer-Employee Relations Act (HEERA)).
- 3.2. Office of Employee Relations: Working Papers Nos. 1 and 2.
- 3.3. Management Guide for the Implementation of the Higher Education Employer-Employee Relations Act, published by the California State University.

4.0. POLICY:

A charge alleging that provisions of the Higher Education Employer-Employee Relations Act (HEERA) have been violated, and thus an unfair labor practice has been committed, may be filed by The California State University (CSU) against an employee organization, or by an employee organization against The California State University (CSU). Unfair labor practice charges are filed with the Public Employees Relations Board (PERB).

The University shall, as a member campus of The CSU, implement decisions made by the PERB when that decision directly affects an employee organization that is affiliated with employees on the campus.

**Approved:**

**Date:**

Additionally, the University will not infringe upon the rights of employees, designated by HEERA, to organize into labor organizations and to meet and confer on wages, hours, and conditions of work.

5.0. DEFINITIONS:

5.1. Unfair Labor practice—An action by either an employer or employee organization which violates provisions of HEERA. The specific acts prohibited by the employer and employee organizations as outlined in HEERA are found in section 6.0. below.

5.2. Policy, Rule, and Regulation—Written directives issued and signed by the proper authority.

6.0. RESPONSIBILITIES:

6.1. HEERA Designated Managers and Supervisors will:

6.1.1. Refrain from the activities considered to be unfair labor practices defined in HEERA, section 3571.1.

It shall be unlawful for the higher education employer to:

- a. Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.
- b. Deny to employee organizations rights guaranteed to them by this chapter.
- c. Refuse or fail to engage in meeting and conferring with an exclusive representative.
- d. Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another; provided, however, that subject to rules and regulations adopted by the board pursuant to Sections 3563, an employer shall not be prohibited from permitting employees to engage in meeting and conferring or consulting during working hours without loss of pay or benefits.

- e. Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).
- f. Consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until such time as such request is withdrawn or an election has been held in which “no representative” received a majority of the votes cast. This subdivision is not intended to diminish the prohibition of unfair practices contained in subdivision (d). For the purposes of this subdivision, the term “academic” shall be deemed to include the academic senates.

6.1.2. Be familiar with contents of the Management Guide for the Implementation of the Higher Education Employer-Employee Relations Act and Office of Employee Relations Working Papers, Numbers 1 and 2, as they relate to management practices.

6.2. Senior Managers will:

- 6.2.1. Maintain an awareness of the requirement of the University to practice personnel actions that are consistent with HEERA.
- 6.2.2. Support line supervisors by providing perspective and insight into the possible implications of an action desired by the supervisor but not in keeping with University policy, rules, regulations, or past practices.
- 6.2.3. Encourage preliminary discussion of any anticipated with the department managers and supervisors and if a charge of unfair labor practice is a possible consequence of the action, encourage the administrator and supervisor to discuss the action or situation with the Employee Relations Manger.
- 6.2.4. Ensure prompt corrective actions when supervisory behavior demonstrates a disregard for employee rights that are granted by HEERA.

6.3. Employee organizations will:

6.3.1. Refrain from the following activities considered to be unfair labor practices as defined in HEERA, Section 3571.1.

It shall be unlawful for an employee organization to:

- a. Cause or attempt to cause the higher education employer to violate Section 3571.
- b. Impose or threaten to impose reprisals on employees, to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise or rights guaranteed by this chapter.
- c. Refuse or fail to engage in conferring with the higher education employer.
- d. Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).
- e. Fail to represent fairly and impartially all the employees in the unit for which it is the exclusive representative.
- f. Require of employees covered by a memorandum of understanding to which it is a party the payment of a fee, as a condition precedent to becoming a member of such organization, in an amount which the board finds excessive or discriminatory under all the circumstances.

In making such a finding, the board shall consider, among other relevant factors, the practices, and customs of employee organizations in higher education and the wages currently paid to the employees affected.

- g. Cause, or attempt to cause, an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or are not to be performed.

In Section 3571.3, HEERA states: The expression of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute, or be evidence of, an unfair labor practice under any provision of this chapter, unless such expression contains a threat of reprisal, force, or promise of benefit; provided, however, that the employer shall not express a preference for one employee organization over another organization.

6.4. The Director of Personnel Management and Services will:

- 6.4.1. Represent the University when an unfair labor charge has been made.
- 6.4.2. Advise the President on the status of filed unfair labor practices on a periodic basis.
- 6.4.3. Provide guidance to managers and supervisors based on opinions from the Division of Employee Relations and the Office of General Counsel.
- 6.4.4. Approve or deny recommendations made by the Employee Relations Manager in matters that are applicable to unfair labor practices.
- 6.4.5. Implement the decisions of the PERB with regards to unfair labor practice charges.

6.5. The Employee Relations Manager will:

- 6.5.1. Provide specific direction to supervisors when supervisors are about to take actions which might be perceived as an unfair labor practice.
- 6.5.2. Advise managers and supervisors of the significance of fair labor requirements and employee rights when involved in discussions of employee discipline, performance appraisal, access policy, HEERA designation changes, organizational change, past practices, University policy and rules, and other related topics.
- 6.5.3. Investigate allegations of unfair labor practices, as appropriate, and provide the Director of Personnel Management and Services with findings and appropriate recommendations.

7.0. PROCEDURES:

- 7.1. HEERA designated Managers and Supervisors will continue to effect their duties in accordance with policy and past practices by impartially:
  - 7.1.1. Pursuing the normal decision-making process relating to the effective operations of the University.
  - 7.1.2. Assigning work, shifts, overtime, and individual tasks without regard for who does or does not support the particular employee organization.
  - 7.1.3. Continuing necessary progressive discipline, including suspension or firing, for infractions of rules without regard for employee organization sentiments of employees.
  - 7.1.4. Hiring, training, transferring, promoting, or taking other personnel actions without regard for employee organization sentiments of those affected.
- 7.2. Prior to taking actions which might be construed as an unfair labor practice, the manger or Supervisor will:
  - 7.2.1. Determine if the action is sound, reasonable and based on facts.
  - 7.2.2. Insure that the managers in the department or school in which the unit reports understand and agree with the intent and purpose of the action.
  - 7.2.3. Contact the Employee Relations Manager should any question arise concerning the issue of whether or not an action could be construed as (or misunderstood to be) an unfair labor practice.
- 7.3. In the event an unfair labor practice is alleged by a HEERA designated manager or supervisor, or by an employee organization, the Employee Relations Manager will conduct an investigation and submit to the Director of Personnel Management and Services appropriate recommendations regarding the University's position/response.
- 7.4. The Director of Personnel Management and Services will:
  - 7.4.1. Recommend appropriate action to the President.
  - 7.4.2. Act as the President's designee in all proceedings related to unfair labor practice charges.

7.4.3. Implement PERB decisions.

8.0. APPENDICES:

N/A