CEA ACTION PROPOSAL

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date: 2026-10-26

2. Department: Public Employment Relations Board

3. Organizational Placement (Division/Branch/Office Name)

State Mediation and Conciliation Services

4. CEA Position Title

Director of Mediation and Conciliation, Private Sector

5. Summary of proposed position description and how it relates to the program's mission or purpose. (*2-3 sentences)*

Under the broad and general administrative direction of the Executive Director, the Director, SMCS plans, organizes and directs the work of the SMCS staff in the mediation and conciliation of labor disputes. SMCS promotes the use of mediation in the establishment and maintenance of harmonious labor-management relationships, and the prevention of labor disputes and work stoppages.

6. Reports to: (*Class Title/Level*)

Executive Director

7. Relationship with Department Director (*Select one)*

☑ Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.

☐ Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(*Explain*):

8. Organizational Level *(Select one)*

☐ 1st ☐ 2nd ☑ 3rd ☐ 4th ☐ 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

1. Formulates administrative policies and procedures, and plans, organizes, and directs the California State Mediation and Conciliation Service (private sector).

2. Develops policies and procedures and provides guidance to conciliators. Supervises the assignment of conciliators to labor disputes; selects, trains and evaluates performance of staff and takes or recommends appropriate action.

3. Supervises and participates in the mediation and conciliation of labor disputes. Facilitates meetings of labor and management.

4. Cooperates with and develops working agreements with the Federal Mediation and Conciliation Service and other public agencies in regard to matters of jurisdiction, coordination between programs, the filing of dispute cases, and the adjustment of labor disputes.

5. Manages the SMCS Panel of Arbitrators for grievances and other labor management disputes, and compiles and maintains Boards of Investigation for transit disputes and other ad hoc hearing bodies specific to statutory requirements.

6. Carries out responsibilities conferred upon the SMCS and PERB in various Transit District Laws in accordance with PERB Regulations, Chapter 9, Procedures Under Specified Transit District Laws.

7. Prepares informational material on the work of the SMCS and addresses interested groups on the progress and effect of the work. Develops training programs that foster effective labor management relations such as labor management committees, effective negotiations, and communication.

8. Oversees the neutral supervision of card check decertification, representation and other elections.

9. Evaluates the effectiveness of the program and justifies staffing levels, prepares reports, presentations and correspondence.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- ☑ Program is directly related to department's primary mission and is critical to achieving the department's goals.
- ☐ Program is indirectly related to department's primary mission.
- ☐ Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The State Mediation and Conciliation Service (SMCS) was established in 1947 to promote harmonious labor/management relations in California. It became a division of PERB on July 1, 2012. The division mediates labor disputes between employers and employee organizations, conducts consent elections, and performs other representation-related work. In addition, the division provides a list of arbitrators, interpersonal workplace conflict resolution mediation, and training on a variety of collective bargaining processes.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The Federal Mediation and Conciliation Services (FMCS) suddenly and without warning stopped providing mediation services on March 14, 2025, except in disputes involving interstate commerce, as specified in the Tatf-Hartley Act. The State Mediation and Conciliation Services (SMCS) has begun to take on these cases. The state is not preempted by federal law in the provision of mediation services to address private sector labor disputes. FMCS is required to encourage the states to provide dispute resolution services to address labor disputes. (29 CFR § 1403.3(b).) FMCS is also required to abdicate to a state mediation service under certain circumstances (29 CFR § 1403.5.). Given further significant reductions to FMCS staff, SMCS now also expects to take on other FMCS services, including private sector contract negotiation mediation and possibly arbitration panel list requests.

SMCS' role within PERB is non-adjudicatory, except as provided in statute, and works to support PERB's mission through mediation, a form of alternative dispute resolution. This is the only division at PERB that is not preempted from taking on work that is displaced from the federal changes thus far in 2025.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

Panel of Arbitrators
The incumbent is responsible for the periodic review and adjustment of the SMCS Panel of Arbitrators program rules and requirements for admission and ongoing membership on the panel, including any or all of the following: 1) minimum experience, 2) professional certifications, affiliations and memberships, 3) adherence to disclosure responsibilities to the parties, 4) timeliness of awards and decisions, 5) timeliness and appropriateness of fees and expenses charged to the parties, and 6) meeting a minimum number of selections by parties in any membership year.

Additionally, the incumbent shall establish the annual fee for membership based on those charged by comparable agencies; and establish a formula for a periodic automatic increases to the annual fee for membership based on increased costs and comparables.

Maintenance of a Panel of Arbitrators is a service offered by most mediation agencies and while the overall quality of the members tends to be self-policed by the members themselves and the professional organizations to which they belong, SMCS' administration of it is subject to their ongoing scrutiny. Irregularities have resulted in complaints to the State, an investigation, the implementation of the software we now know as PASS, and calls from arbitrators who report on program violations committed by other arbitrators, requiring action on the part of SMCS. The SMCS panel is a popular one and is widely used, therefore attention to the quality of the panel's administration and its members is paramount to the credibility of the program.

Monitoring of Labor Activities
SMCS will establish and maintain an ongoing social media presence for the purpose of monitoring labor unrest and potential strike threats throughout the State. The social media presence for SMCS (Facebook, LinkedIn) will be restricted to organization profiles that do not allow access for posting or reactions, and shall not be connected to the PERB network, but be accessed by the remote SMCS administrators by remote WiFi, and by way of a segmented network VLAN in PERB office locations, without risk of access to the PERB network. The incumbent will have primary responsibility for any reaction or response to social media activities, but may designate additional administrators for the ongoing monitoring.

SMCS will maintain electronic subscriptions to reliable news media outlets in key areas within the State, and source other venues of current events, economic and political trends, and groups or organizations with significant involvement in the labor/management communities within the State. The incumbent will be responsible for any necessary reaction or response to developments being reported in theses outlets and venues, but may also appoint a designee to assist, as an ad hoc or ongoing collateral assignment.

Metric Development
The incumbent will develop metrics to measure workload and make adjustments, as needed. The metrics will be applied to the evaluation of SMCS' work, by type, in combination with the levels of urgency and necessary staff resources, to determine categories of priority. Work that is less urgent in nature will be considered "secondary" for purposes of allocating resources, to the extent that it may be temporarily suspended, if necessary, due to a lack of resources.

PERB's adjudicatory services are critical to its constituents. The information it holds and the actions it takes conform strictly to State and Federal laws, with significant impacts. Any downtime in its case processing creates risks of statutory violations and other serious complications for parties and PERB staff. As the non-adjudicatory division of PERB, SMCS relies heavily on its ability to anticipate the severity of disputes as they develop and mitigate them to the fullest extent possible. Internal to PERB, successful mitigations reduce workload in the adjudicatory divisions, and ultimately, its Board. More importantly, SMCS efforts either resolve expensive major disruptions in commerce, healthcare services, education and transportation services, both public and private, or they at the very least allow the parties to move quickly into the next stages of dispute processing without unnecessary delays. Lax oversight and monitoring by the incumbent will often lead to interventions after the parties are experiencing severe job actions, rather than before, costing the general public money and major disruptions in their lives and livelihoods. It also leads to scrutiny and interference by public officials and news media local to the dispute, or even from State level government officials. The need to allocate and balance staffing resources under such emergency conditions is chaotic and disruptive to the whole SMCS operation, where the ability to anticipate and plan allows for more thoughtful and productive work assignments and balancing.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The CEA will operate with a high degree of autonomy and independent judgment, and formulate long-term departmental policies to navigate the workload associated with private sector grievances mediation. The CEA will exercise broad, independent decision-making authority which includes policy direction and approving division-wide priorities.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The CEA will have full responsibility for developing, implementing, and interpreting policy for workload associated with private sector grievance mediations.