ASSOCIATION of LABOR RELATIONS AGENCIES

ALRA Advisor

ALRA 2021—Virtually Speaking

IN THIS ISSUE

ALRA NEWS

ALRA MEMBER UPDATES

ALRA MEMBERSHIP REMINDERS

Membership dues notices were recently emailed to all ALRA members. If your agency did not receive a notice or if you have questions about agency membership, contact Mike Sellars, ALRA Vice President for Finance, at mike.sellars@perc.wa.gov.

Please also take a moment to review your agency information at alra.org/member-agencies. If you have any updates for your agency, please send them to Mike Sellars.

ASSOCIATION of LABOR RELATIONS AGENCIES

The ALRA Advisor is published biannually (early spring and fall). On occasion, special issues are produced on an ad hoc basis.

Deadlines

- Spring Issue: January 31
- Fall Issue: August 31

Articles and Photos

All articles are subject to editing for length and clarity. Images should be high resolution.

Submit all material to

Eileen Hennessey
hennessey@nmb.gov

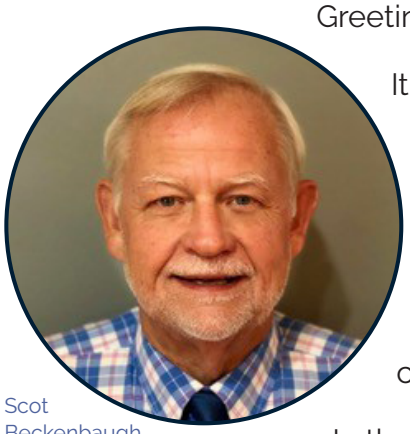
Special thanks to

Eileen Hennessey
Counsel, National Mediation Board

Vanessa Smith
Executive Assistant, Public Employment Relations Commission

alra.org

FROM THE PRESIDENT



Scot Beckenbaugh

Greetings and good wishes to all our member eligible agencies and colleagues.

It has been a long time since an issue of the ALRA Advisor was last distributed. Our last issue came out in October of 2019. The good news, I think, is that we are still here. As you know, our 2020 annual conference in Vancouver was cancelled—a first for ALRA. In another first, in a few days the 2021 Conference will be held as a "virtual" event. And for those who wonder whether there will ever be another in-person annual ALRA conference, I am pleased to confirm we do have the same Vancouver hotel under contract for a 2022 conference. We remain hopeful for continued progress of Covid containment efforts.

In that 2019 Advisor, I wrote the following the words:

> I am humbled by the challenge in the face of coming change and the inevitable conflicts that will confront our member agencies. The challenge for ALRA is to sustain our positive direction while simultaneously enabling us to assist our member agencies in meeting the future service demands they will encounter. Doing so against the current backdrop of constant and inevitable external changes requires that we understand and leverage our foundational strength. Having served on the ALRA Executive Board since 2005, I have seen the organization successfully respond to similar challenging environments. ALRA has long served as a beacon of light for our member agencies during times of change. We have done so by mirroring the values of those agencies. ALRA is an organization that shares "with" and cares "for" the colleagues and the constituents we serve. We are all fortunate to work for agencies whose respective missions remain critically important to the constituencies we serve directly and critically impactful to those who benefit from the successful fulfillment of our mission.
>
> At the closing of the Cincinnati conference, I highlighted some modest goals I have for ALRA this year. We are challenged to expand our membership and maintain our financial health. In order to do so, we should seek to increase the value we provide to those who encounter ALRA. The value can increase by enhancing that which we do while simultaneously exploring new services and service delivery mechanisms. While the annual conference is the single most important service ALRA sponsors for our member agencies, it is by no means the sole service. I recognize and value the expansion of technology as a vehicle to provide timely information and skills training to our constituents. Smaller organizations need the skills and exposure to new and innovative methods for service delivery but many lack the resources necessary to access the information. Trying to identify how ALRA can assist our smaller agencies or "resource challenged" larger agencies is an important opportunity we need to explore. At a minimum we should be able to direct them to member agencies who are already leveraging technology to more efficiently perform administrative functions, increase staff development opportunities, and improve constituent service.

Believe me, I had no clue about the dimensions of the challenges and change we would all face. In fact, we left the "spring" meeting in Vancouver with the 2020 conference agenda close to finality. Upon departing Vancouver, members of the Executive Board and respective Planning Committees

wished each other "safe travel" and looked forward to seeing everyone at the end of July. We were, however, all commenting about the virus outbreak at nursing homes in the Seattle metropolitan area as well as the number of people wearing masks at the airport. What transpired since has been tragic for so many people, communities, and organizations. I confess that I am one of those who shudder when people talk about "returning to normal." Each time I hear it, I am reminded that it will never be normal for those who lost loved ones and, tragically, for those who continue to experience life-altering losses as the pandemic continues. Nor can we forget the horrors that first responders encounter(ed) as they seek to aid the afflicted. I remain both awed and saddened by essential workers who go to work every day knowing the real risk of exposure for themselves and their families.

I certainly recognize that our challenges pale in depth and scope when compared to those faced by others, but that need not diminish pride in our organizational response during the pandemic. That "we are still here" as an intact organization and prepared to put on our first virtual annual conference is a testament to the dedication, creativity, and resiliency of the ALRA Executive Board and our colleagues serving as committee co-chairs. Like the respective agencies and the constituents we serve, we had to make many extraordinary decisions in response to the new challenges faced. Fortunately, we were already looking to broaden the sharing of ALRA's expertise by utilizing technology. We did so through a series of web-based programs with broad agency participation. The goals referenced in the 2019 Advisor article certainly did not portend the challenge of a pandemic but remarkably have largely been met as we are set to hold this year's conference. We remain financially sound even with the offer of dues reprieve for member agencies last year. While we are currently showing a modest decline in net member agencies, we will also welcome several new member agencies this fiscal year.

Pandemic or not, the value proposition that is foundational to ALRA remains strong. We continue to expand our substantive expertise, learn about "state of the art" process applications, and emphasize the strong ethical standards associated with neutrality. Remaining true foundationally need not inhibit innovation or creativity. It simply keeps it focused and enables us to positively manage the inevitable change that we will confront. By continuing to share our expertise across neutral jurisdictions in North America, using a variety of formats, we increase our ability to accomplish our missions more effectively and more efficiently. It is work worth doing and a success we should celebrate. I look forward to seeing you online at the 2021 ALRA Conference.

—Scot Beckenbaugh

SAVE THE DATE!

70th Annual ALRA Conference
Vancouver, British Columbia, Canada
July 23–26, 2022

Find more information at alra.org/registration

Photo Credits: Tourism Vancouver

PROFESSIONAL DEVELOPMENT UPDATE

The Professional Development Committee has been busy developing content and organizing presenters for ALRA's virtual conference on July 27 and 28, 2021. In addition, the Committee has planned some amazing webinars outside of the conference. We wanted to find a way to help keep labor relations professionals engaged and connected as well as to support them in navigating changes in their work during these unprecedented times.

So far, three sessions have been held. The first webinar, "Adjudicating Labor Relations Disputes during the Global Pandemic – Lessons Learned," involved tips and tricks for holding virtual hearings from seasoned adjudicators. In the second webinar, leading mediators shared their best practices for mediating labor disputes during the pandemic. The third webinar dealt with the challenges of working from home and how to attempt to maintain a work/life balance in the COVID world.

We are very excited to announce that our next webinar will be held on August 19, 2021, and will deal with the future of virtual hearings and lessons from practitioners and neutrals. It will be jointly presented with the National Academy of Arbitrators and the American Bar Association's State and Local Collective Bargaining and Employment Committee. To register, go to alra.org/virtual-learning.

We hope to see you there!

HONORING TIM NOONAN

By Marjorie Wittner, Chair, Massachussetts Commonwealth Employment Relations Board

"Persistent."

That's how Tim Noonan described himself on the occasion of his retirement as Executive Director of the Vermont Labor Relations Board after forty years of service. That is an apt if typically understated description from a man of many accomplishments—beyond his lengthy tenure at the VLRB, Tim has run over 75 marathons, written the seminal treatise on Vermont labor law, coached high school cross country, conducted innumerable trainings and seminars, and been an invaluable member of the ALRA community for over thirty years. I spoke with Tim in May and had the honor of being present at three retirement tributes to him in May and June. Combined with some research of my own, including perusing some back editions of the Advisor, the following is a snapshot of the consummate labor relations neutral and all-around great guy.

Career

Tim's interest in labor relations goes back to the 70s, where, as a sophomore at Providence College majoring in economics, he took an elective course in labor relations. In a 2015 profile of him in the ALRA Advisor, Tim stated that the field "made perfect sense to him" because he viewed workplace democracy as a natural offshoot of political democracy. Tim took additional courses at the Quirk Institute of Industrial Relations and went on to get a Master's Degree in Labor Studies from the Labor Center at the University of Massachusetts. Following law school, the VLRB hired him as assistant to the Board and promoted him just two and one-half years later to the newly created Executive Director position, a title he held until his retirement last spring.

As a self-professed "true believer" in good government and public policy, Tim has left a lasting footprint at the VLRB. During a hybrid in-person and virtual retirement party on June 4, the high esteem in which his professional colleagues and family hold him was on full display. Many

praised his teaching abilities and sense of humor while others spoke admiringly of the way he handled Board cases, even when they disagreed with the outcome. VLRB Board Chairperson Richard Park read a proclamation from the Vermont House of Representatives that honored his leadership and service. Tim's daughter Colleen, a lawyer at Jones Day, spoke admiringly of her father as the "smartest man" she knows.

Tim's legacy at the VLRB will also live on in the form of "The Evolving Labor Law," a treatise that Tim first wrote in 2009 and updated every two and a half years that includes all Vermont Labor laws and an alphabetical and subject index to all VLRB and appellate opinions from 1977–2021. Now in its 5th edition and over 500 pages long with over 2,100 footnotes, it is regularly referenced by practitioners. It has proven so popular that Tim is sometimes asked to sign copies!

ALRA

Tim's relationship with ALRA over the years has truly been a win-win situation. He attended his first conference in Portland, Maine, in 1984 and became more involved around 1989 when Vermont put in a bid to host the 1991 conference. (Vermont hosted ALRA in both 1991 and 2007.) Tim first became a member of ALRA's Executive Board in the early 1990s and again in the late 1990s as the Vice President of Administration. He rejoined the Board in 2014 and served as president from 2014–2015. Tim has often explained that he first got involved in ALRA and its New England counterpart, the New England Consortium of Labor Relations Agencies, because, coming from a tiny labor board (just two employees) in a tiny state, ALRA and the Consortium were his "lifeblood," offering him opportunities to meet and learn from his labor relations colleagues around New England, the U.S., and Canada. What he modestly neglects to mention is how much he has contributed to those opportunities—from participating in countless ALRA ethics trainings to co-teaching the ALRA Academy with Scot Beckenbaugh and Ginette Brazeau on numerous occasions. Following his multiple Executive Board terms, Tim essentially became a standing member of the Arrangements Committee, where his expertise in costing our conference contracts, combined with his calm and, well, persistent demeanor greatly contributed to the success of many recent ALRA conferences.

ALRA has also greatly benefitted from Tim's love for books and history. Since 2015, he has served as ALRA's unofficial historian, diving deep into ALRA's archives to produce several "From the Archives" articles that explore ALRA's history from many angles, from its organization structure to the annual conference. At the 2019 Cincinnati conference, Tim co-hosted ALRA's first ever "book club," where he shared his carefully curated list of Labor Relations "Good Reads." (His 2019 edition is attached.)

In February of this year, ALRA honored Tim at a virtual training session with speeches from Scot Beckenbaugh and Ginette Brazeau describing Tim's service and dedication to the organization. On April 21, New York PERB Chair John Wirenius, who currently serves both on ALRA's Board and as Executive Director of the New England Consortium of State Labor Relations Agencies, presented Tim with a plaque, "In gratitude for his many years of service to the association and to the larger cause of labor relations." Tim has been on the Consortium's board since 1983, and in any given year, has served as its Executive Director, Fiscal Agent, and/or key conference planner and trainer.

Words of Wisdom

When asked for advice for future ALRA presidents, Tim thought a moment and replied that "the key is having the conference in a state that people want come to" and ensuring that "the organizers do a great job." Tim also discussed the positive changes he has seen in ALRA over the years, including having more women involved (Tim chronicled these changes in a 2019 Advisor column) and having more agency staff members instead of just heads of agencies attend the conference. In Tim's words, "We can learn from everyone."

Despite the relative ease and convenience of virtual meetings and online training, Tim was adamant that nothing could or should

permanently replace ALRA's annual in-person conference and the personal interactions that result. That said, Tim believed that mid-year virtual trainings, such as the two-hour programs that ALRA provided this past year, were both feasible and advisable. Tim would also like to see ALRA engaged in more focused regional outreach. He views regional joint training sessions as one way that ALRA could strengthen its presence in regions that have not been as active as others. Tim also floated the idea of an "ALRA Academy on the Road" or a virtual ALRA Academy as a means of introducing newcomers to the organization while providing them with good training. As Tim showed me several neat binders in his bookshelf filled with ALRA's newsletter and other materials, he expressed his hope for a central repository for such materials that all ALRA members could access and learn from in years to come.

Past, Present, and Future

Outside of his life in labor relations, Tim has many interests, including being an avid runner and marathoner for over four decades and coaching cross-country skiing. He also been involved in community and church groups that address poverty and hunger in central Vermont.

His main interests, however, revolve around his family, including his two daughters, the aforementioned Colleen, and Theresa, who recently graduated from UVM with a degree in nursing. Tim also has a two-year-old grandson, John Patrick Ryan, and was very happy to report that another grandchild is due to arrive in July.

Now that he is retired, Tim is looking forward to spending even more time with family and friends but is quick to assure the labor relations community that he will not "fall off the face of the earth." He is planning to write a book about Vermont labor relations history that will be "more anecdotal than academic." Once he has completed that project, he hopes to take advantage of his past president status by continuing to attend ALRA conferences. He also plans to continue delving into ALRA's archives, which could possibly lead to another book. Keep persisting, Tim—we look forward to seeing you around! ■

"GOOD LABOR READS"

Labor History Books Recommended by Tim Noonan, Executive Director, Vermont Labor Relations Board

Toil and Trouble: A History of American Labor, Thomas Brooks (1964). - A primer on the history of the labor movement in the United States up to 1964

And the Wolf Finally Came: The Decline of the American Steel Industry, John Hoerr (1988) – Absorbing account of labor-management relations, and the human and economic impacts, during the period of the decline of the U.S. steel industry

Working, Studs Terkel (1972) – Classic work of oral history where people talk about their jobs and how they feel about them

Hard Bargains, My Life on the Line, Bob White (1987) – Candid autobiography of Canadian Auto Workers Union President focusing on the time the CAW broke off from the UAW

We Can't Eat Prestige: The Women Who Organized Harvard, John Hoerr (1997) – Story of the women-led Harvard Union of Clerical and Technical Workers and the fifteen-year struggle culminating in the union prevailing in an election to represent Harvard clerical and technical employees

The Jungle, Upton Sinclair (1906) – Classic novel of the inhuman conditions experienced by workers in the Chicago stockyards in the early 20th century. The book was influential in the passage of the Food and Drug Act, resulting in this memorable quote of Sinclair: "I aimed for the public's heart and accidentally hit it in the stomach"

The Turbulent Years: A History of the American Worker 1933-1941, Irving Bernstein (1969) – A thorough account (800 pages) of the most eventful period in U.S. labor history with respect to union growth, labor laws and strikes

Collision Course, Joseph McCartin (2011) – Detailed account of a pivotal event in labor history – the air traffic controllers' strike of 1981 in which President Reagan fired the striking employees

The Brothers Reuther and the Story of the UAW, Victor Reuther (1976) – An insightful inside account of the formation and development of the United Automobile Workers Union

The Grapes of Wrath, John Steinbeck (1939) – Steinbeck's great (many think his greatest) novel of the Dust Bowl migration to California in the 1930s

More Than They Bargained For, Jason Stein and Patrick Morley (2013) – Detailed account of 2011 struggle in Wisconsin when many provisions of public sector labor laws were repealed

Going Down the Jericho Road, Michael Honey (2007) – Story of the 1968 strike of Memphis sanitation workers represented by AFSCME that was Martin Luther King's last campaign and claimed his life

The Roosevelt I Knew, Frances Perkins (1946) – Illuminating and first-hand account of the landmark and extensive New Deal labor laws by Franklin Roosevelt's Secretary of Labor and first woman cabinet member in U.S. history

Eugene V. Debs, Citizen and Socialist, Nick Salvatore (1982) – Bancroft Prize winning definitive biography of late 19th and early 20th century labor and socialist leader

Between Management and Labor: Oral Histories of Arbitration, Clara H. Friedman (1995) – Examines the roles and perspectives of mediators and arbitrators in their own words, providing a gold mine of experience and insights

Public Workers: Government Employee Unions, the Law, and the State, 1900-1962, Joseph Slater (2004) – Analyzes why public sector labor law evolved as it did and how the stage was set for the dramatic growth in public sector labor laws and union organizing beginning in the 1960s. ■

ONLINE MEDIATION IS MEDIATION

By Lindsay Foley, Industrial Relations Board Officer, Canada Industrial Relations Board, Certified Mediator and Qualified Arbitrator

While online dispute resolution is not new, it was to me and to other mediators with the Canada Industrial Relations Board (CIRB) when the Covid-19 crisis and its related challenges arrived early last year. How would we continue to meet effectively with parties, seek common ground, bridge divides, and resolve labour relations conflicts? The obvious solution was that we would need to adapt and offer online mediation to our clients via videoconferencing as an alternative to in-person mediation. However, a popular opinion amongst mediators is that in-person mediation is the most effective way to resolve disputes, so I set about to test that theory!

I scheduled the first online mediation at the Board. In the meantime, and in a very compressed time period, I set out to teach myself how to mediate using videoconferencing systems. Due to the successful use of Zoom by the private-sector arbitration community, I started there. I approached the task with curiosity, and questioned what online mediation was, how it functioned, and its effectiveness. Keeping in mind that the base was there (i.e., I had previously mediated numerous disputes), I researched online mediation and considered best practices shared by other users as well as suggestions on methods and procedures to adopt and others to avoid. There is lots of information out there. I attended webinars, and, very importantly, practiced using the Zoom platform with various colleagues. I discovered that with today's functionality, mediating online is very similar to mediating in person!

A large degree of planning is required in mediation and, with this in mind, it made sense to me that part of the process would require the parties to be comfortable with the online platform. I scheduled an online meeting with

the parties to give them a tour of Zoom. This meeting took place one week before the actual mediation. I demonstrated what the joint session would look like and how it operates, the share screen function to share and review documents together, the whiteboard function, and the breakout rooms. I went over a protocol with the parties in case we were disconnected or if they needed to speak to me confidentially. This was an essential step in order to prepare the parties to participate in the process and optimize the chances of success of the mediation. I note that planning the process and confirming expectations is an essential step in any mediation, whether it is in person, online, or on a conference call.

Admittedly, I was nervous. There were not only the party dynamics to consider but also the unfamiliar platform. We can only plan as much as possible, and working with the parties virtually versus in-person brought an additional element of uncertainty to the process. In hindsight, this feeling of uncertainty was similar to the uncertainty one would feel mediating in any different environment; the mediator always needs to become comfortable with the surroundings whether in person or online.

Even though online mediation was unfamiliar, the parties had a sense of what to expect from the process. There were a total of seven participants including myself. Some of the individuals were in the same room together—practicing social distancing, of course—while others were in a different location. I created five breakout rooms in Zoom: a waiting room, a joint session room, a hallway, and two caucus rooms (one for each party). Once all the participants had arrived, I admitted them from the waiting room to the joint session and we started off as I would in any mediation, going over the agreement to mediate and the expectations of the process. We also reviewed a new document that was created by the CIRB that sought the parties' consent to mediate using videoconferencing as a medium. As the mediation progressed over the next 11 hours, I moved freely between the caucus rooms, joint sessions, and the hallway discussions (side bars) much like I would in an in-person mediation. Most importantly, it had the same effectiveness, and the same feelings of momentum were there.

There were some challenges. For example, Zoom does not have doors to knock on, thus I had no real way of being certain that I would not show up in the middle of a private conversation. To remedy this, I would either call or text a party to ask if I could join their room and, when I joined, I removed my ear-buds so that I could be sure that I would not overhear anything that the parties were saying upon my arrival. As well, I used the broadcast function to advise the parties what room I was in and how long I expected to be there. Mediating online can be more tiring, so I frequently checked in with participants to gauge their need for breaks. In the eleventh hour, literally, I was facilitating developing options with the parties, and I noted the options on my paper notepad, rather than on the whiteboard, in order to maintain flow.

The mediation went well. The process was designed to facilitate communication with the parties. Reflecting on it, there were lessons learned: the mediator should also check in with themselves to see if they need a break, parties should be reminded before taking a break to mute their microphones and, in general, everyone should be reminded to minimize distractions such as smart phones and outdoor noise as much as possible. Having now conducted an online mediation, I have determined that it is actually very similar to the in-person experience; same roles, different environment, and with practice it should become second nature.

I believe that effective mediators are flexible, adaptable, and open to possibilities, and I encourage other mediators who have been reluctant to take the plunge to give online mediation a go. This may allow the mediator to expand their services and reach more clients. When you do decide to try online mediation, be open to change, be curious, be honest, and tell your clients that it is your first online mediation. As with any of your other mediation experiences, it also helps to be open to feedback, and to reflect upon and learn from how things went. ■

UNITED STATES

POLICE REFORM LEGISLATION IMPACTS MEMBER AGENCIES

By Mike Sellars, Executive Director, Washington State Public Employment Relations Commission

In the last year, following the killing of George Floyd, many states passed police oversight or reform bills. According to the New York Times, over 30 states have passed more than 140 new police oversight and reform laws. Most of those laws deal with police tactics (banning chokeholds or neck restraints or restricting no-knock warrants), mandate or fund body cameras, require officers to intervene if they witness excessive force, or limit officer immunity. Four states, however, also passed laws that directly or indirectly impact member agencies or statutes administered by member agencies.

Maryland

In 2021, the Maryland Legislature passed HB670, and overrode the Governor's veto, eliminating the Law Enforcement Officers Bill of Rights. In 1977, Maryland was the first in the nation to codify workplace protections for law enforcement officers. The protections gave officers a formal waiting period before they had to cooperate with internal inquiries into police conduct, allowed scrubbing records of complaints brought against officers after a certain period, and ensured that only fellow officers—not civilians—could investigate them. Many other states followed Maryland in adopting a police bill of rights.

Maryland's police reform bill also creates citizen police accountability boards. The accountability boards will review investigations into complaints against law enforcement officers by the public and recommend whether officers should be disciplined. The police chief may not impose a discipline lower than that recommended by the accountability board.

Minnesota

In July 2020, the Minnesota Legislature passed Minnesota Statute 2020, Section 626.892 requiring the Minnesota Bureau of Mediation Services (BMS) to create a "Peace Officer Grievance Arbitration Roster." The Commissioner of the BMS will, in consultation with community and law enforcement stakeholders, appoint a roster of six persons to conduct disciplinary grievance arbitrations involving peace officers.

In making the appointments, the Commissioner is to consider the BMS's qualifications for appointment to its regular panel of arbitrators. The Commissioner is also to consider the candidate's familiarity with labor law, the grievance process, and the law enforcement profession or the candidate's experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences.

Appointments to the roster will generally last for three years, and the Commissioner may remove an arbitrator for cause in accordance with the BMS's rules for removing arbitrators from its regular panel of arbitrators. Members of this roster may not serve as an arbitrator in any other labor arbitration.

Appointees to this roster must also complete training as directed by the Commissioner. The training must include

- at least six hours on the topics of cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and
- at least six hours on topics related to the daily experience of peace officers, which may include ride-alongs with on-duty officers or other activities that provide exposure to the environments, choices, and judgments required of officers in the field.

All arbitrations of disciplinary grievances for peace officers must go to the BMS for appointment of an arbitrator. The parties have no say in the appointment of the arbitrator, and the Commissioner appoints the arbitrator from this roster on a rotating alphabetical basis. The fee schedule for these arbitrations is set by the Commissioner.

By January 2021, six individuals had been appointed to the roster and the fee schedule had been established. However, no arbitrations had occurred.

Oregon

In 2020, the Oregon Legislature passed SB1604 which imposed restrictions on an arbitrator in police disciplinary cases. If the arbitrator finds misconduct consistent with the employing agency's finding of misconduct and the discipline is consistent with the provisions of a disciplinary matrix set as the result of collective bargaining, the arbitrator cannot impose a different level of discipline.

In 2021, the Oregon Legislature passed HB2930 which repealed the above provisions of SB1604 and replaced them with more comprehensive disciplinary provisions. SB2930 establishes a Commission on Statewide Law Enforcement Standards of Conduct and Discipline that will adopt statewide uniform standards of conduct and disciplinary standards for law enforcement officers. Both law enforcement agencies and arbitrators will make decisions regarding discipline consistent with those disciplinary standards. Arbitrators are prohibited from overturning a discipline if doing so is inconsistent with the public's interest in maintaining community trust, enforcing a higher standard of conduct for law enforcement officers, and ensuring an accountable, fair, and just discipline process.

The bill also requires the Oregon Employment Relations Board to appoint from a "list of qualified, indifferent, unbiased persons" to serve as arbitrators. The parties are entitled to one opportunity to object to the arbitrator selected by the board. The Board will then make another selection.

Washington

In 2021, the Washington Legislature passed SB5055, a law similar to Minnesota's, requiring the Washington State Public Employment Relations Commission (PERC) to create a Law Enforcement Disciplinary Grievance Arbitration Roster. The law requires the Commission to create a roster of 9 to 18 arbitrators to arbitrate disciplinary grievances of law enforcement personnel. Law enforcement personnel is defined to include any individual working for a public employer that has as its primary function the enforcement of criminal laws.

The Commission may only appoint persons who have a minimum of six years' experience as

- a full-time labor relations advocate who has been the principal representative for either labor or management in at least 10 arbitration proceedings,
- a full-time labor mediator,
- an arbitrator who has decided at least 10 collective bargaining disputes, or
- a practitioner or full-time instructor of labor law or industrial relations.

The Commission must also, as applicable, consider the following in making appointments to the roster:

- A candidate's familiarity, experience, and technical and theoretical understanding of and experience with labor law, the grievance process, and the field of labor arbitration;
- A candidate's ability and willingness to travel through the state, conduct hearings in a fair and impartial manner, analyze and evaluate testimony and exhibits, write clear and concise awards in a timely manner, and be available for hearings within a reasonable time after the request of the parties;
- A candidate's experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and
- A candidate's familiarity and experience with the law enforcement profession, including

ride alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required by officers in the field.

Appointments to the roster will generally last three years. Individuals may be reappointed by the Commission, and there is no limit on the number of terms an individual may serve. The Commission may remove individuals from the roster by a majority vote.

Within six months of appointment to the roster, individuals must complete training developed, implemented, and required by the Executive Director. The training must include at least the following:

- Six hours on the topics of cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and
- Six hours on topics related to the daily experience of law enforcement officers, which may include
- ride-alongs with on-duty officers,
- participation in citizens' academies conducted by a law enforcement agency,
- shoot/don't shoot training provided by a law enforcement agency, or
- other activities that provide exposure to the environments, choices, and judgments required of officers in the field.

All arbitrators of law enforcement personnel disciplinary grievances must come from the roster of arbitrators. The parties have no say in the appointment of the arbitrator. The appointment of the arbitrator must be made by the Executive Director on rotation through the roster alphabetically by last name. If the appointed arbitrator is unable to hear the case within three months from the request for an arbitrator, the Executive Director appoints the next arbitrator from the roster alphabetically.

Arbitrators must disclose to the Executive Director any conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality. The Executive Director may determine whether the conflict merits assigning the next arbitrator on the roster. Either party may also petition the Executive Director to have an assigned arbitrator removed due to a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality. If the petition is granted, the Executive Director assigns the next arbitrator on the roster.

The Commission establishes the fee schedule for arbitrations conducted under this legislation. The Commission sets the fee schedule on an annual basis. PERC must post on its website law enforcement grievance arbitration decisions made under this legislation within 30 days of the decision. The names of the grievant and witnesses are to be redacted.

PERC is currently soliciting applications for appointment to the roster and engaging in outreach about the new roster. Initial appointments to the roster may occur beginning in August 2021. The Commission has set the fee schedule for the arbitrations. PERC is in the process of identifying training to meet the statutory training criteria. ■

MASSACHUSETTS DEPARTMENT OF LABOR RELATIONS AND THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

New Address

In June 2021, the Department of Labor Relations (DLR) moved to new offices that are located in the heart of downtown Boston. The new address is Department of Labor Relations, 2 Avenue de Lafayette, Boston, MA 02111.

Personnel Changes

Chief Counsel

Chief Counsel Jane Gabriel, who had been with the DLR since 2013, retired at the end of March 2020. Jillian (Jill) Ryan Bertrand, a Northeastern Law School graduate who interned at the DLR during her second year of law school, has replaced Jane. Jill worked in private practice for nine years at the law firm of Pyle Rome Ehrenberg P.C. before returning to the DLR. The DLR has also hired four new investigators and a mediator in the past two years.

New CERB Member

In July 2020, Kelly Strong was appointed by the Governor to serve a five-year term on the Commonwealth Employment Relations Board (CERB). Kelly formerly served as Director of Labor Relations and Labor Counsel for the Massachusetts Port Authority and as Senior Labor Relations Representative for the Massachusetts Bay Transportation Authority. He presently serves as the Executive Director of the Boston Shipping Association. Kelly replaced Katherine Glendon Lev, who served a four-year term that expired in November 2019.

Court Decisions

U.S. Supreme Court Denies Certiorari in Post-*Janus* Decision on Exclusive Representation

As reported in the May 2019 Advisor, in April 2019, the Massachusetts Supreme Judicial Court (SJC) issued a decision in Branch et al. v. Commonwealth Employment Relations Board, 481 Mass 810 (2019), upholding the CERB and concluding that neither the exclusive representation provisions of the Massachusetts public sector collective bargaining statute, G. L. c. 150E, nor the internal policies and procedures of public sector unions barring nonmembers from various collective bargaining activities, including sitting on negotiating teams participating in ratification votes, and serving as union officers, violated the right of association guaranteed by the First Amendment to the United States Constitution, or impermissibly coerced and restrained them in the exercise of their rights guaranteed under c. 150E. The National Right to Work Foundation, which represented the plaintiffs, filed a petition for writ of certiorari with the U.S. Supreme Court in July 2019. The Court asked for a response from the CERB but ultimately denied the petition in January 2020. Briefs, including amicus briefs, and other pleadings may be found here.

Provision in Faculty Unit CBA Establishing a Cap on the Percentage of Adjunct Professors Teaching Credit Courses in Academic Departments Held Enforceable

Board of Higher Education v. Commonwealth Employment Relations Board, 483 Mass. 310 (2019).

In October 2019, the SJC held that the CERB had properly determined that a provision in a collective bargaining agreement between the Board of Higher Education (board), the statutory employer of State college faculty members under G. L. c. 150E , and the union representing certain faculty members placing a cap on the percentage of courses taught by part-time faculty at the Commonwealth's State colleges was enforceable and did not intrude impermissibly on the nondelegable managerial prerogative of the State college boards of trustees under G. L. c. 15A, § 22, to appoint,

transfer, dismiss, promote, and award tenure to all personnel. The Court found nothing in the language of § 22 that explicitly prohibited the board from bargaining over the hiring of part-time faculty and nothing in the relevant provision of the collective bargaining agreement that materially conflicted with the board's general authority to set educational policy.

Notable CERB Decisions

Open Bargaining – Belmont School Committee and Belmont Education Association, 45 MLC 185, MUP-17-5825 (June 7, 2019).

The CERB dismissed a complaint alleging that the Belmont School Committee violated its duty to bargain in good faith when it refused to bargain in the presence of bargaining unit members whom, unbeknownst to the School Committee, the Belmont Education Association (Union) had designated as "silent representatives" of its bargaining team whose role, beyond merely observing negotiations, was to communicate with the core team during caucuses and bring information back to the core team. Where the School Committee had previously rejected the Union's proposal to have negotiations open to all bargaining unit members, and where the Union never informed the School Committee that it had taken an internal vote to include "silent representatives" on its bargaining team or otherwise notified the School Committee that these bargaining unit members were going to be attending negotiations, the CERB held that the ambiguity of the bargaining unit members' identity and role privileged the School Committee to refuse to bargain in their presence.

Merger Doctrine – Town of Braintree and New England Police Benevolent Association and AFSCME Council 93, 46 MLC 8, MCR-19-7086 (July 19, 2019).

The New England Police Benevolent Association filed a petition with the DLR seeking to represent a unit of "all full-time and regular part-time Civilian Dispatchers in the police department and the Animal Control Officer." The dispatchers were represented for purposes of collective bargaining by AFSCME Council 93. As a threshold matter, the CERB had to determine whether AFSCME represented the Civilian Dispatchers in a stand-alone unit or as part of a larger, merged bargaining unit that included three other groups of employees. After hearing, the CERB found that even though, fifty years earlier, the DLR had certified AFSCME as the exclusive representative of four separate units in the Town of Braintree, the Civilian Dispatchers were now part of a single merged unit for the following four reasons: (1) the four original certified units did not include Civilian Dispatchers and had significantly changed over the years; (2) the CBA's recognition clause and other provisions did not demonstrate that there were four separate units; (3) the CBA specifically listed Civilian Dispatchers as one of many bargaining unit titles; and (4) the elected shop stewards represented bargaining unit members from different units. Having determined that the Civilian Dispatchers were not a stand-alone unit, the CERB analyzed whether they should be severed from the merged unit. Applying its traditional two-part test, the CERB held that they should not. Even though they constituted an appropriate, functionally distinct unit, the CERB found no special negotiating concerns or conflicts arising out of their distinct status that would justify severance.

Eating at Desks is a Mandatory Subject of Bargaining – City of Boston and Boston Police Superior Officers Association, 46 MLC 64, MUP-16-5618 (September 27, 2019).

The CERB reversed a hearing officer's decision and held that the City of Boston violated its duty to bargain in good faith when it unilaterally imposed a work rule prohibiting eating at desks. Contrary to the hearing officer, the CERB found that the City's legitimate interests in eliminating rodents and insects from the workplace did not outweigh the Union's interests in bargaining over the work rule, which it found affected several mandatory subjects of bargaining, including, most notably, the availability of food in the workplace and the conditions under which it could be consumed.

Interference with Internal Union Communications – City of Somerville and Somerville Police Employees Association, 47 MLC 59, MUP-17-

5980 (October 22, 2020). The CERB affirmed a hearing officer's decision holding that the employer violated the Law by (a) requiring a former union vice-president to disclose certain internal communications with the union president; (b) issuing an order prohibiting the president and former vice-president from communicating with most other employees about an internal affairs investigation; and (c) questioning the former vice-president and president about those union communications during internal affairs interviews. The CERB found that discussions between the two union officers about an upcoming maritime training over which the union had demanded to bargain and was contemplating filing a grievance were concerted activities that did not lose their protected status when the union president asked the then union vice president to withdraw from the training at the last minute and the vice president refused. The CERB agreed with the hearing officer that this conduct neither disrupted employer operations nor was indefensibly disloyal to the employer and thus, the employer's conduct would tend to interfere with, restrain, and coerce employees in the exercise of their rights protected under Section 2 of the Law.

Strike Investigations

Public employee strikes are unlawful in Massachusetts, and they are unusual. In fact, the DLR has investigated strike allegations only five times in the past 15 years. This year, however, was different. As the start of the school year approached in the fall of 2020, school districts around the Commonwealth engaged in negotiations with the unions representing their employees over how to return to school safely during the pandemic. As might be expected, disputes arose during these negotiations and DLR mediators successfully helped the parties resolve these disputes in dozens of cases. However, in three cases, mediation was unsuccessful and the employees of the school districts in those cases went on strike. The CERB quickly conducted videoconference investigations into these allegations, in one case within hours after the strike began, and just as quickly issued back-to-work orders in two cases—the third case settled later in the evening after the investigation was finished—and the teachers were back to work the next day.

The two published strike rulings can be found here: Andover School Committee and Andover Education Association, 47 MLC 33, SI-20-8176 (September 8, 2020); Brookline School Committee, Brookline Educators Union, Jessica Wender-Shubow and Robert Miller, 47 MLC 79, SI-20-8287 (November 3, 2020).

Cannabis Cases

While a little-known provision of the DLR's statute gives it jurisdiction to conduct elections involving private sector agricultural employees, the DLR has never conducted such an election in over 50 years. This year, the DLR received six petitions involving agricultural workers at cannabis cultivation facilities. These cases presented novel legal issues involving whether the DLR or the National Labor Relations Authority had jurisdiction. The DLR has certified the union as the exclusive bargaining representative in five of the cases and in the sixth, the union was voluntarily recognized

Statutory Changes

On September 23, 2019, Massachusetts joined several other states in passing legislation intended to ameliorate the effects that the Supreme Court's *Janus* decision had on public sector unions. The statute, Chapter 73 of the Acts of 2019, amended several statutes, including the state's Public Records statute, M.G.L. c. 150E, and the dues deduction statute. With respect to the collective bargaining statute, the law now states that the exclusive representative may require a non-member to pay the reasonable costs and fees, including arbitrator fees and related attorney fees, for grieving or arbitrating a matter arising under a collective bargaining agreement. The amendments also, for the first time, explicitly state that a union's duty of fair representation to public employees shall be limited to the negotiation and enforcement of the terms of agreements with public employers.

The new law also grants unions the right to meet with newly hired employees, or prospective school employees, without charge to the pay or

leave time of such employees for not less than 30 minutes, during orientation, or its equivalent. It also requires employers to provide to unions new employee contact information, including name, job title, worksite location, home address, work telephone number, home and personal cell telephone number on file, date of hire, work email address and personal email address on file. (Governor Charlie Baker vetoed this aspect of the legislation, but both houses of the Legislature overrode the veto.)

COVID-19 Response

The DLR issued two sets of guidelines in response to the COVID-19 state of emergency that Governor Baker declared on March 12, 2020: (1) DLR Operations During Coronavirus COVID-19 Outbreak and (2) DLR Guidance Regarding Rights and Obligations During COVID-19 Outbreak. The first document details the new procedures that the DLR put in place to ensure its continued operations during the state of emergency, including procedures for videoconference investigations and hearings. The second guidance discussed both labor and management's contractual and bargaining rights during the state of emergency. The Governor ended the state of emergency on June 15, 2021.

Videoconference Investigations, Hearings, and Mediations

In normal times, all of the DLR's investigations, hearings, and mediations are conducted in person. With the onset of the pandemic, this was not possible and so, beginning in April, the DLR transitioned to conducting all of its proceedings remotely via WebEx. So far this has been successful, minor technical glitches aside, and the DLR has received no complaints or appeals based on videoconference proceedings. The DLR anticipates a return to in-person proceedings this fall. ■

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Staff Updates

The period from January 2020 through June 2021 has been eventful at the Michigan Employment Relations Commission (MERC).

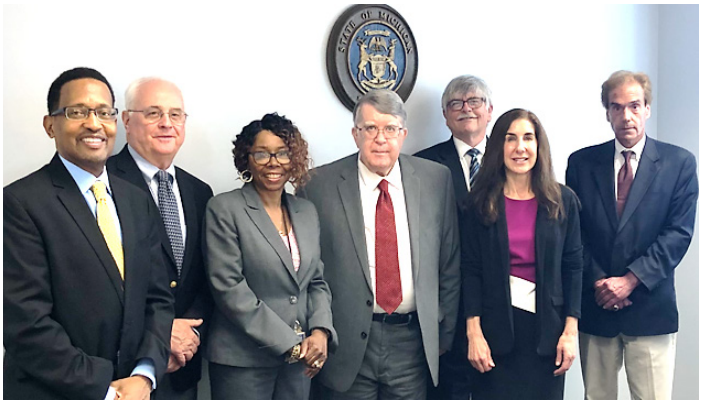
Tinamarie Pappas: In August 2020, Tina was appointed as MERC Commissioner having extensive experience as a labor side attorney and previously as a NLRB attorney in Region 7 (Detroit). In April 2021, she was elevated to MERC chair following the departure of former chair Samuel Bagenstos. Commission Chair Pappas' current term expires in June 2023.

William F. Young: In April 2021, Bill was appointed as MERC Commissioner filling the unexpired term from the Bagenstos departure. Bill is a retired labor side attorney that specialized in public sector groups such as teachers. He is a previous shareholder and member of the prestigious law firm of White, Schneider, Young & Chiodini, P.C. in Lansing, Michigan. Commissioner Young's current term expires June 2022.

Samuel R. Bagenstos: In December 2019, Sam was newly appointed to the Commission and as MERC Chair. In January 2021, Sam stepped down to accept a presidential appointment in the Biden Administration as General Counsel for Office of Management and Budget. At the time of his MERC appointment, Sam was a Professor of Law at the University of Michigan Law School in Ann Arbor, Michigan.

Robert S. LaBrant: In June 2021, Bob concluded his service at the agency after 3 terms (9 years) as MERC Commissioner. Bob is the former General Counsel for the Michigan Chamber of Commerce and prior Sr. Counsel for the Sterling Corporation.

Former Commissioners Callaghan and LaBrant; Current Commissioners Pappas and Young.



McBride (Director), Callaghan, Deborah Stewart (Executive Assistant), LaBrant, Young (rear), Pappas (Chair) and Carl Wexel (Staff Attorney)

Edward D. Callaghan: In August 2020, Ed concluded a 12-year period as MERC Commissioner and Chair. Ed was instrumental in several special initiatives including the agency's 1st Annual Report. He is a former Campus President, Vice-Chancellor, and faculty member of Oakland Community College. He currently serves as an appointed Fact Finder and 312 Arbitrator on MERC contract bargaining cases.

Natalie Priest Yaw: In December 2019, Natalie ended 2 terms (6 years) as MERC Commissioner. She is currently a member and partner in a private practice firm that provides litigation and representation for corporate clients.

Ruthanne Okun: In February 2020, Ruthanne retired as Bureau Director after nearly 22 years. She is credited as the longest serving Bureau Director and having facilitated many meaningful partnerships with the agency during her long tenure.

Sidney McBride: In February 2021, Sidney promoted to the agency's Bureau Director. At MERC since 2009, he has previously served as Interim Director, Mediation Division Administrator, Labor Mediator, and Administrative Law Specialist.

Case Highlights

Switch to Electronic Pay Stubs

City of Bay City -and- Utility Workers Union of America, AFL-CIO, Local 542, Case No. C18 G-067, issued May 14, 2020, the Commission majority found that the Respondent Bay City did not violate the Public Employment Relations Act (PERA) when it unilaterally switched to issuing employees electronic pay statements (pay stubs). The Majority concluded that the change had no significant impact on the bargaining unit and upheld the longstanding MERC precedent that recognizes a "managerial prerogative" that permits employers to make reasonable technological advances in the workplace and such changes are not mandatory subjects of bargaining. The Commission majority also noted that the Parties' successor collective bargaining agreement (CBA) contained a provision requiring employees to use payroll direct deposit. MERC concluded when a matter is reasonably covered in the CBA, further bargaining on that subject is foreclosed. The dissenting Commissioner argued that the switch to electronic pay stubs involved a mandatory subject of bargaining and the City's failure to bargain with the Union violated the PERA.

Installation of Cameras in Sanitation Trucks

City of Bay City -and- Utility Workers Union of America, AFL-CIO, Local 542, Case No. C18 I-091, issued June 19, 2020, the Commission unanimously found that the Respondent Bay City did not violate the PERA when it installed cameras in its sanitation trucks. The Commission found that the subsequent CBA contained provisions that could reasonably be relied upon to support the Employer's actions and therefore covered the issue. Consequently, the

Commission held that the Employer could not be required to bargain further. The Commission also noted that the language in the subsequent CBA did not alter the City's ability to install or use cameras inside sanitation trucks and that the charging party waived any right to continue to pursue the matter. The Commission did not find it necessary to determine whether the Employer's installation of the cameras in the sanitation trucks was a mandatory subject of bargaining.

Failure to File a Discharge Grievance

City of Grayling -and- POAM -and- Todd Hatfield, Case No. C18 C-022 & CU18 C-005, issued August 11, 2020, the Commission found that the charge against the Employer should be dismissed because the record lacked evidence that the City harbored any anti-union animus. Conversely, the Commission concluded that the Union breached its duty of fair representation when it would not file grievances over the charging party's loss of seniority, reclassification as a probationary employee, and discharge from employment. The Commission concluded that the Union treated the charging party with hostility and remanded the case to the Administrative Law Judge (ALJ) for the purpose of issuing an Order recommending that the parties arbitrate the charging party's discharge matter. The Commission further held that, should the Employer fail to consent to grievance arbitration, the Commission will require the Union to reimburse the charging party for all damages consistent with the State Supreme Court's *Goolsby* decision. The Commission Chair dissented indicating that the remedy incorrectly punishes the Union instead of making the charging party whole.

Failure to Rehire after Outsourcing

Ypsilanti Community Schools -and- Teamsters Local 243 -and- Deanne Freeman -and- Leslie Harris, MERC Case Nos. 19-H-1710-CE, 20-A-0016CE & 20-A-0017-CE, issued January 12, 2021, the Commission unanimously found that the School District violated Section 10(1)(c) by failing to hire the charging parties due to their prior union activity. The individual charging parties had previously served as shop stewards for the Union, prior to the School District outsourcing its transportation services to a private sector company. After outsourcing, the new private sector company hired all of the prior workers, except for these two former union stewards. The Union and the former stewards filed charges against the School District asserting discriminatory conduct and anti-union animus against the former employees due to their prior union activity. The School District denied any misconduct and asserted MERC lacked jurisdiction to address the claim as the new transportation vendor is private sector and outside of MERC's authority. MERC disagreed finding jurisdiction proper because the charging parties applied for employment within a public school district, which is a public employer. The Commission held that the remedy recommended by the ALJ (that included back pay and job reinstatement) was appropriate and also upheld the ALJ's credibility determinations.

Parking Changes

University of Michigan Health System and University of Michigan House Officers Association, Case No. 19-H-1721-CE, issued February 9, 2021, the Commission found that the Employer violated the PERA when it unilaterally relocated the parking spaces reserved for employee parking notwithstanding the Union's request to bargain over the impact of any parking changes to its bargaining unit members. The Employer sought to revamp seven parking areas to provide additional patient and guest parking. In doing so, more than 900 spaces were reassigned within the 6 parking locations that comprised parking structures and surface lots. The change resulted in many employees, including bargaining unit members, to pay more in monthly costs or travel farther between the new parking space and their worksite. The Employer viewed the impact of the changes as "minimal." The Commission majority disagreed, finding the parking reassignments to be a substantial change in working conditions that had a material impact on unit employees. By refusing the Union's demand to bargain, the Employer committed a bargaining violation. The Commission also rejected the Employer's "covered by" defense finding no language in the

CBA that reasonably addressed the parking issue in this dispute.

Contract Bar to Election

City of Farmington Hills, Case No. 20-K-1702-RC, issued June 8, 2021, the Employer and Incumbent Union were parties to a CBA covering the period of July 1, 2017, through June 30, 2022. A renegotiated agreement between the parties was reached on July 28, 2020, and mutually ratified in August 2020. On November 4, 2020, a rival Union filed a petition for a representation election and argued that the contract ratified in August 2020 was a premature extension of the initial 5-year agreement and could not bar the newly filed petition. The Commission disagreed, finding that the August 2020 ratified agreement did not constitute a premature extension under Section 14(1) of the PERA. The Commission reasoned that the petitioner (and others) had an opportunity to file during the open window period and after the expiration of the first 3 years of the initial 5-year agreement. The fact that the Incumbent Union renegotiated and ratified a subsequent agreement after expiration of the 3-year protected period of that initial contract did not meet the definition of a "premature extension" under PERA section 14. Consequently, the Commission dismissed the rival Union's representation petition as barred and untimely.

TA Ratification Bar to Election

Wayne County, Case 20-L-1803RC, issued June 8, 2021, the Commission majority found that a 30-day election bar existed when the Employer and Incumbent Union reached a tentative agreement (TA) on contract negotiations on the same day that a rival Union filed a petition for representation election involving that same unit. The MERC majority viewed that in light of the revamped processes used during the virtual bargaining setting caused by COVID-19 limitations, the parties' TA was complete and sufficient to trigger the 30-day grace period consistent with the PERA and MERC's General Rules. The Commission also found that the TA was fully ratified and adopted by the parties prior to the expiration of that 30-day grace period. Consequently, the MERC majority dismissed the representation petition as barred under Section 14 of the PERA. Conversely, the dissenting Commissioner argued that the TA reached on the same day as the petition's filing was incomplete and did not trigger the 30-day grace period. The dissent reasoned that the TA was not a complete written collective bargaining agreement and executed by the authorized representatives of the parties as required by longstanding Commission precedent. The dissent also concluded that the TA was not ratified by the Employer within the 30-day grace period. ■

NATIONAL MEDIATION BOARD

President Joe Biden has nominated **Deirdre Hamilton**, of the District of Columbia, to be a Member of the National Mediation Board (NMB) for a term expiring July 1, 2025. Ms. Hamilton is currently a staff attorney for the Teamsters Airline Division and prior to that served as an attorney with the Association of Flight Attendants-CWA. President Biden also announced the renominations of current NMB Chair **Gerald W. Fauth**, of Virginia, for a term expiring July 1, 2023, and current NMB Member **Linda A. Puchala**, of Maryland, for a term expiring July 1, 2024. All three nominations are pending confirmation from the United States Senate.

Mary Johnson, NMB General Counsel, retired in October 2020 after almost four decades of service at the NMB. Ms. Johnson became the first woman to serve as the NMB's General Counsel in 2002. She is a past member of the ALRA Executive Board and served as its President in 2009. **Maria-Kate Dowling** was named Acting General Counsel by the NMB effective October 1, 2020.

Terri D. Brown has been selected as the new Director of the Office of Arbitration Services effective March 29, 2020. She replaces Roland Watkins who retired October 1, 2019. Ms. Brown began her career in labor relations at Amtrak in 1988 and joined the NMB in 2002 as a Mediator. She was promoted to Senior Mediator in 2010. During her tenure, she successfully mediated many complex cases in both the airline and railroad industries. Most recently, she was responsible for coordinating the bargaining between the National Carrier Conference Committee and various unions and coalitions.

John M. Livingood was selected as one of two new Senior Mediators, effective August 3, 2020. He replaces Patricia Sims, who became the Director of Mediation in October 2018. He joined the NMB in April 2000 as a Mediator working on both airline and railroad cases. Prior to joining the NMB he had over 19 years of experience in Labor Relations in the rail industry, including at National Railroad Passenger Corporation (AMTRAK) and Consolidated Rail Corporation (Conrail). Additionally, he has 3 years of experience in private practice as a mediator and arbitrator.

Kelley R Gallop was selected as the NMB's second new Senior Mediator, effective August 17, 2020. She replaces Terri Brown, who became the Director of Arbitration in March 2020. She has over 19 years of federal labor and employee relations experience including positions as the Labor Relations Officer at United States Forest Service, the National Endowment for the Arts, and the Defense Contract Audit Agency. Ms. Gallop has conducted national and local level negotiations with various unions (AFL-CIO affiliated and independent) including AFGE, NTEU, NFFE, FOP, Teamsters, MTC, IAFF, NAAE, NAPPQOSE, and Unite Now. She also has performed the agency head review (legal sufficiency) for collective bargaining agreements including the above unions as well as IFPTE, NAGE, IAMAW, SEIU, LIUNA, IBPO, IBEW, and ACT. ■

PENNSYLVANIA LABOR RELATIONS BOARD

On February 8, 2020, the Pennsylvania Labor Relations Board (PLRB) officially amended its rules and regulations to allow for electronic filing for virtually all types of filings. The exception to electronic filing are representation petitions that are accompanied by a signed showing of interest, which must still be received in original hard copy. Electronic filings to the PLRB may be made through its official filing email account, RA-LIPLRB-FILING@pa.gov.

Obviously unknown at the time, this change came right before an unprecedented global pandemic shut down operations at all levels of government, business, and life as we know it. With this new type of filing now available and the logistical pieces put in place literally just days before the global shutdown began, parties were able to file with the PLRB from their computers. ■