

PUBLIC EMPLOYMENT RELATIONS BOARD



San Francisco Regional Office
1330 Broadway, Suite 1532
Oakland, CA 94612-2514
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October 25, 2019

Allison Woodall, Deputy General Counsel
University of California, Office of the General Counsel
1111 Franklin Street, 8th Floor
Oakland, CA 94607-5200

Julia Lum, Attorney
Leonard Carder
1330 Broadway, Suite 1450
Oakland, CA 94512

Re: *American Federation of State, County & Municipal Employees Local 3299 v. Regents of the University of California*
Unfair Practice Charge No. SF-CE-1245-H

Dear Parties:

The Office of the General Counsel has issued the enclosed COMPLAINT in the above-entitled matter. The Respondent is required to file an ANSWER within twenty (20) calendar days from the date of service of the COMPLAINT, pursuant to PERB Regulation 32644.¹ The required contents of the ANSWER are described in PERB Regulation 32644(b).

If you have not filed a Notice of Appearance form, one should be completed and returned with your ANSWER. Please be aware that once legal counsel is designated, PERB will only correspond with that individual(s).

Further direction will be provided shortly. Please direct all inquiries, filings and correspondence to the undersigned.

Sincerely,


Laura Z. Davis
Supervising Regional Attorney

Enclosure

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of PERB's Regulations may be found at www.perb.ca.gov.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



AMERICAN FEDERATION OF STATE,
COUNTY & MUNICIPAL EMPLOYEES LOCAL
3299,

Charging Party,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Respondent.

Case No. SF-CE-1245-H

COMPLAINT

It having been charged by Charging Party that Respondent engaged in unfair practices in violation of California Government Code section 3571, the General Counsel of the Public Employment Relations Board (PERB), pursuant to California Government Code sections 3563(h) and 3563.2 and California Code of Regulations, title 8, section 32640, issues this COMPLAINT on behalf of PERB and ALLEGES:

1. Charging Party is an exclusive representative within the meaning of Government Code section 3562(i) of a bargaining unit of Service employees (SX Unit) and a bargaining unit of Patient Care Technical employees (EX Unit).
2. Respondent is an employer within the meaning of Government Code section 3562(g).
3. Charging Party and Respondent were parties to a Memorandum of Understanding (MOU) covering the SX unit that expired on June 30, 2017. Charging Party and Respondent were parties to an MOU covering the EX unit that expired on December 31, 2017.
4. Article 5 of the MOUs for both units provides, in part, as follows:
 - 5.A.2. The provisions of Section A – D of this article shall apply to contracts for services that are subject to renewal.

...

5.B.1. The University of California will not contract out services solely on the basis that savings will result from lower contractor pay rates and benefits for services customarily performed by bargaining unit employees or that result in the layoff of bargaining unit employees.

...

5.B.4. When the University has determined to contract for services that are customarily provided by AFSCME unit employees, subject to the restrictions contained in this article, it will provide AFSCME's Local 3299 Director or Designee with a copy of any RFP [Request for Proposal] as soon as feasible but no later than ten (10) business days after it is issued. Such notice shall demonstrate the appropriateness for the contract, in accordance with section B above.

a. Upon request from AFSCME, the University will provide all existing relevant non-confidential written information pertaining to prospective third-party contract for services that involve work customarily provided by the bargaining unit, which may include the cost analysis used by the University to evaluate the need for contracting out and copies of consultant reports, if any, used by the University in making its decision regarding contracting out.

b. If AFSCME asks to meet with the University about the proposed contract for services, such a meeting will occur as soon as practicable following the University's receipt of the request. The meeting will not delay the commencement of the contract.

5. Respondent has adopted a policy of not providing RFPs to Charging Party pursuant to Article 5 and/or has repudiated Article 5 of the CBA. Respondent has failed and refused to provide RFPs to Charging Party concerning its contracts to outsource bargaining unit work to third parties including, but not limited to, ZeroChaos/Workforce Logiq, Advance Care Services, AHP Staffing, AMN Healthcare, Apex Staffing Service (Phoenix Medical Group), CHG Medical Staffing dba CompHealth Medical Staffing, Cirrus Medical Staffing, Coast Medical Service, Cross Country Staffing, Emerald Health Service, Healthcare Pros, HRN

Services, Mediscan Staffing, MGA Healthcare, Premier Nursing Service, ProCare One Nursing, Procel Temporary Services, Professional Respiratory Network dba American Staffing Registry, Rehababilities, Reliable Healthcare, Supplemental Health Care, Truststaff, Westways Staffing Services, and Xprt Staffing.

6. Respondent engaged in the conduct described in paragraph 5 without prior notice to Charging Party and without having afforded Charging Party an opportunity to meet and confer over the decision to implement the change in policy and/or the effects of the change in policy.

7. By the acts and conduct described in paragraphs 5 and 6, Respondent failed and refused to meet and confer in good faith in violation of Government Code section 3571(c).

8. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3571(a).

9. On or about June 30, 2017, and continuing, Respondent has contracted out work customarily performed by members of the SX Unit to third-party contractors, including ZeroChaos/Workforce Logiq, Advance Care Services, AHP Staffing, AMN Healthcare, Apex Staffing Service (Phoenix Medical Group), CHG Medical Staffing dba CompHealth Medical Staffing, Cirrus Medical Staffing, Coast Medical Service, Cross Country Staffing, Emerald Health Service, Healthcare Pros, HRN Services, Mediscan Staffing, MGA Healthcare, Premier Nursing Service, ProCare One Nursing, Procel Temporary Services, Professional Respiratory Network dba American Staffing Registry, Rehababilities, Reliable Healthcare, Supplemental Health Care, Truststaff, Westways Staffing Services, and Xprt Staffing.

10. On or about December 31, 2017, and continuing, Respondent has contracted out work customarily performed by members of the EX Unit to third-party contractors, including ZeroChaos/Workforce Logiq, Advance Care Services, AHP Staffing, AMN Healthcare, Apex Staffing Service (Phoenix Medical Group), CHG Medical Staffing dba CompHealth Medical

Staffing, Cirrus Medical Staffing, Coast Medical Service, Cross Country Staffing, Emerald Health Service, Healthcare Pros, HRN Services, Mediscan Staffing, MGA Healthcare, Premier Nursing Service, ProCare One Nursing, Procel Temporary Services, Professional Respiratory Network dba American Staffing Registry, Rehababilities, Reliable Healthcare, Supplemental Health Care, Trustaff, Westways Staffing Services, and Xprt Staffing.

11. Respondent engaged in the conduct described in paragraphs 9 and 10 without prior notice to Charging Party and without having afforded Charging Party an opportunity to meet and confer over the decision to implement the change in policy and/or the effects of the change in policy.

12. By the acts and conduct described in paragraphs 9, 10 and 11, Respondent failed and refused to meet and confer in good faith in violation of Government Code section 3571(c).

13. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3571(a).

14. On or about January 24, 2019, Charging Party requested the following information that is relevant and necessary to Charging Party's discharge of its duty to represent employees: a spreadsheet showing all invoices ZeroChaos had issued to the University of California San Francisco for use of contract labor from 2017 to the present.

15. Respondent provided an incomplete response to the request on August 2, 2019, and has not provided any further information.

16. By the conduct described in paragraph 15, Respondent failed and refused to meet and confer in good faith with Charging Party in violation of Government Code section 3571(c).

17. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3571(a).

18. On or about February 11, 2019, Charging Party requested the following information that is relevant and necessary to Charging Party's discharge of its duty to represent employees: 21 items of information regarding any expiring ZeroChaos contracts, and 14 items regarding any new contracts with ZeroChaos or similar entities or extensions of the contract.

19. Respondent has not provided a response to this request for information.

20. By the conduct described in paragraph 19, Respondent failed and refused to meet and confer in good faith with Charging Party in violation of Government Code section 3571(c).

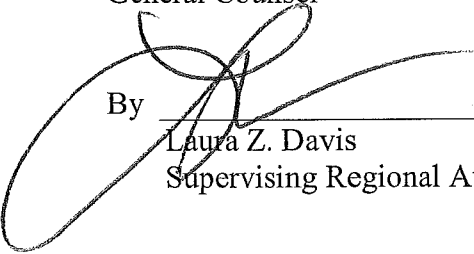
21. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3571(a).

Any amendment to the complaint shall be processed pursuant to California Code of Regulations, title 8, sections 32647 and 32648.

DATED: October 25, 2019

J. FELIX DE LA TORRE
General Counsel

By



Laura Z. Davis
Supervising Regional Attorney

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Alameda, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, 1330 Broadway, Suite 1532, Oakland, CA 94612-2514.

On October 25, 2019, I served the Letter regarding Case No. SF-CE-1245-H on the parties listed below by

placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid.

personal delivery.

facsimile transmission in accordance with the requirements of PERB Regulations 32090 and 32135(d).

electronic service (e-mail).

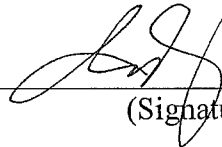
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Julia Lum, Attorney
Leonard Carder
1330 Broadway, Suite 1450
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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 25, 2019, at Oakland, California.

C. Diaz

(Type or print name)



(Signature)