

PUBLIC EMPLOYMENT RELATIONS BOARD

San Francisco Regional Office
1330 Broadway, Suite 1532
Oakland, CA 94612-2514
Telephone: (510) 622-1025
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September 14, 2018

Tim Yeung, Attorney
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555 Capitol Mall., Ste. 600
Sacramento, CA 95814

Katherine Hallward, Attorney
Andrew Ziaja, Attorney
Leonard Carder LLP
1330 Broadway, Suite 1450
Oakland, CA 94612

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

Re: *American Federation of State, County & Municipal Employees Local 3299 v. Regents
of the University of California*
Unfair Practice Charge No. SF-PE-1-H

Dear Parties

The Office of the General Counsel of the Public Employment Relations Board (PERB) has issued the enclosed COMPLAINT and NOTICE OF ALLEGED VIOLATION OF GOVERNMENT CODE SECTION 3558

PERB will contact the parties shortly regarding future procedural steps in this matter.

Sincerely,

Daniel M. Trump
Senior Regional Attorney

DT:dt

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



AFSCME LOCAL 3299,

Charging Party,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Respondent.

Case No. SF-PE-1-H

COMPLAINT and NOTICE OF
ALLEGED VIOLATION OF
GOVERNMENT CODE
SECTION 3558

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 the Patient Care Technical (EX) Unit and the Service (SX) Unit of employees working for Respondent.
2. Respondent is an employer within the meaning of Government Code section 3562(g).
3. On or about October 25, 2017, Respondent provided Charging Party with a File Transfer Protocol (FTP) report of information concerning employees in the bargaining units it represents. The report failed to include the personal cellular telephone numbers, personal email addresses, and work locations of all bargaining unit members.

4. In or about June 2018, Respondent provided Charging Party with a FTP report of information concerning employees in the bargaining units it represents. The report failed to include the home addresses or home telephone numbers of 14,469 bargaining unit members.

5. In or about July 2018, Respondent provided Charging Party with a FTP report of information concerning employees in the bargaining units it represents. The report failed to include the home addresses or home telephone numbers of 14,484 bargaining unit members.

6. By the acts and conduct described in paragraphs 3, 4, and 5, Respondent interfered with employee rights guaranteed by the Higher Education Employer-Employee Relations Act in violation of Government Code section 3571(a).

7. The expired memoranda of understanding between Charging Party and Respondent state that Respondent will not include on employees' employment forms the option to withhold home addresses and telephone numbers from Charging Party.

8. On or about March 18, 2018, Charging Party learned that Respondent's *At Your Service* employee information system required employees to affirmatively request disclosure of their contact information to Charging Party.

9. Since April 2018, Respondent's *At Your Service* employee information system has allowed employees to request that their personal contact information not be disclosed to Charging Party.

10. Respondent implemented the policies described in paragraphs 8 and 9 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.

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

12. 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).

13. The policy described in paragraph 8 interfered with employee rights guaranteed by the Higher Education Employer-Employee Relations Act in violation of Government Code section 3571(a).

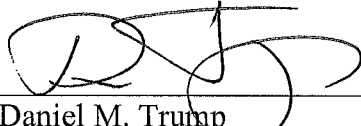
14. The policy described in paragraph 9 interfered with employee rights guaranteed by the Higher Education Employer-Employee Relations Act in violation of Government Code section 3571(a).

In addition, it having been charged by Charging Party that Respondent violated California Government Code section 3558, the General Counsel of PERB, pursuant to California Government Code sections 3555.5(c) and 3541.3, and the attached order from the Board itself, issues this NOTICE OF ALLEGED VIOLATION on behalf of PERB and ALLEGES:

15. By the acts and conduct described in paragraphs 3, 4, and 5, Respondent violated Government Code section 3558.

DATED: September 14, 2018

J. FELIX DE LA TORRE
General Counsel

By 
Daniel M. Trump
Senior Regional Attorney

PUBLIC EMPLOYMENT RELATIONS BOARD

Office of the General Counsel
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September 11, 2018

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Katherine Hallward, Attorney
Andrew Ziaja, Attorney
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Re: *American Federation of State County and Municipal Employees, Local 3299 v. Regents of the University of California*
Case No. SF-CE-1188-H

University Professional and Technical Employees, CWA Local 9119 v. Regents of the University of California
Case No. SF-CE-1189-H

American Federation of State County and Municipal Employees Local 3299 v. Regents of the University
SF-PE-1-H

University Professional and Technical Employees, CWA Local 9119 v. Regents of the University of California
Case No. SF-PE-2-H

(Collectively) Injunctive Relief Request No. 757

Dear Parties:

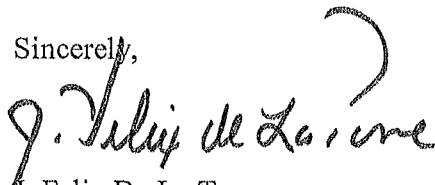
By direction of the Board, the request for injunctive relief in the above-entitled matter is granted only as to Charging Parties' allegations that Respondent violated Government Code, section 3553 only. In addition, the Board has directed the following:

1. That the Office of the General Counsel prepare a "Notice of Alleged Violation" (Notices) for each matter that it shall issue to Respondent. The Notices shall apprise Respondent of allegations that it violated Government Code, sections 3550, 3553, and 3558. These Notices may be combined with complaints alleging related unfair labor practices.

SF-CE-1188-H
September 11, 2018
Page 2

2. That the Division of Administrative Law hold evidentiary hearings to adjudicate the alleged violations of Government Code, section 3550, 3553 and 3558, which shall proceed pursuant to the Administrative Adjudication Bill of Rights (Government Code section 11425.10 et seq.)

Sincerely,

A handwritten signature in cursive script that reads "J. Felix De La Torre". The signature is written in black ink and is positioned above the typed name.

J. Felix De La Torre
General Counsel

FDT:jfd

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento, 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, 1031 18th Street, Sacramento, CA 95811-4124.

On September 11, 2018, I served the Letter regarding Case No. SF-CE-1188-H, SF-CE-1189-H, SF-PE-1-H, and SF-PE-2-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).

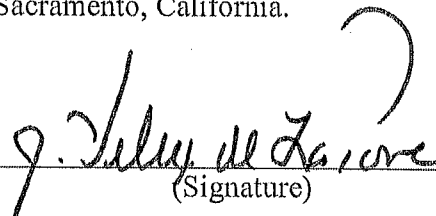
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Oakland, CA 94612

Allison M. Woodall, Dep. General Counsel
University of California
Office of the General Counsel
1111 Franklin Street, 8th Floor
Oakland, CA 94607

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 11, 2018, at Sacramento, California.

J. Felix De La Torre
(Type or print name)


(Signature)

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 September 14, 2018, I served the Letter regarding Case No. SF-PE-2-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.

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555 Capitol Mall., Ste. 600
Sacramento, CA 95814

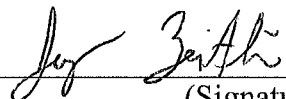
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Oakland, CA 94612

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

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 14, 2018, at Oakland, California.

J. Zeitlin

(Type or print name)



(Signature)

PUBLIC EMPLOYMENT RELATIONS BOARD

San Francisco Regional Office
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September 14, 2018

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

Re: *American Federation of State, County & Municipal Employees Local 3299 v. Regents
of the University of California*
Unfair Practice Charge No. SF-CE-1188-H

Dear Parties:

The Office of the General Counsel of the Public Employment Relations Board (PERB) has issued the enclosed NOTICE OF ALLEGED VIOLATION OF GOVERNMENT CODE SECTIONS 3550 and 3553, and COMPLAINT.

PERB will contact the parties shortly regarding future procedural steps in this matter.

Sincerely,

Jeremy Zeitlin
Regional Attorney

JGZ:jz

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-1188-H

NOTICE OF ALLEGED
VIOLATION OF
GOVERNMENT CODE
SECTIONS 3550 and 3553, and
COMPLAINT

It having been charged by Charging Party that Respondent violated California Government Code sections 3550 and 3553, the General Counsel of the Public Employment Relations Board (PERB or Board), pursuant to California Government Code sections 3551 and 3541.3, and the attached order from the Board itself, issues the following NOTICE OF ALLEGED VIOLATION on behalf of PERB and ALLEGES:

1. Charging Party is an exclusive representative within the meaning of Government Code section 3562(i) of the Patient Care Technical (EX) Unit and the Service (SX) Unit of employees working for Respondent.
2. Respondent is an employer within the meaning of Government Code section 3562(g).
3. On or about June 28, 2018, Respondent sent a communication to various employees exclusively represented by Charging Party, including both members and non-members of Charging Party. The body of this communication stated:

I'm writing to inform you about a recent United State Supreme Court decision concerning paycheck deductions for union-represented employees who work for public employers, including public universities such as UC.

In a case brought by an Illinois state employee against the American Federation of State, County and Municipal Employees (AFSCME) union, the Supreme Court on June 27, 2018 ruled that it is unconstitutional for unions that represent government employees to collect what are known as “agency fees” from nonmembers. The court decision affects represented government employees in 22 states, including California, where unions collect these fees.

Unions collect dues from their members and agency fees from nonmembers. Nonmembers are people who are not registered dues-paying members but who are still represented by a union and therefore pay a fee for that representation. By law, UC is required to deduct dues and agency fees from the paychecks of represented employees and transfer the funds to the unions.

As a result of the Supreme Court ruling, UC will no longer deduct agency fees from the paychecks of union nonmembers. These deductions will stop with the July 25, 2018 paycheck for most employees who are paid biweekly (every other week) and August 1, 2018 for employees who are paid monthly.

The Supreme Court decision does not affect the dues that union members pay. UC will continue to deduct dues from these employees’ paychecks and transfer the funds to the unions.

Attached and available online is additional information about how this decision affects employee paychecks.

If you have any questions about union fees, dues or membership, you may contact your local Labor Relations Office.

4. This correspondence was either accompanied by and/or contained a digital link to a FAQ [Frequently Asked Questions] produced by Respondent. The body of the FAQ stated:

What the U.S. Supreme Court’s ruling in the Janus case means for UC union-represented employees

On June 27, 2018, in *Janus v. AFSCME Council 31*, the U.S. Supreme Court ruled that requiring non-members of public sector labor unions to pay agency fees violated those employees’ right to free speech under the First Amendment of the U.S. Constitution. As a result of that decision, public sector labor unions are no longer permitted to collect agency fees from non-members. The University is required to comply with the *Janus* decision, and as explained in further detail below, will stop deducting agency fees from employees that have chosen not to join a union.

Q. Who does this decision apply to?

A. This court decision applies to all U.S. public sector employees represented by a union but have chosen not to join the union. Those employees had been

previously required under law to pay monthly “agency fees” as a condition of employment. The decision does not affect union members who pay monthly union dues. The decision also does not apply to union-represented employees who are employed by private (i.e., non-governmental) organizations.

Q. What’s the difference between union dues versus agency fees?

A. Union dues are paid by members who have chosen to join a union. Those employees who have declined to join a union are required to pay what is known as agency fees. Agency fees are intended to cover the cost of negotiation, contract administration, and other activities of the union that are germane to its functions as the exclusive bargaining representative. Dues-paying members may enjoy rights and privileges, such as voting rights, that are not similarly enjoyed by non-members.

Q. I don’t know if I pay dues or fees-how do I find out if I'm affected by this decision?

A. If you are unsure about whether you pay dues or fees, contact your local labor relations office or your local union representative.

Q. How will this decision affect UC employee paychecks?

A. Since employees who pay a fee to the union are now no longer required to make those contributions as a result of this decision, UC will discontinue paycheck deductions for these employees.

Q. If I’m an employee who is affected by this decision, when will I see a change in my paycheck?

A. Most employees who are paid biweekly (every other week) can expect a change by their July 25, 2018 paycheck. Employees who are paid monthly can expect to see a change in their August 1, 2018 paycheck.

Q. How do I find out how much the fees are - and therefore, how much will no longer be deducted from my paycheck?

A. Fees and union dues for each UC bargaining unit are listed at <https://ucnet.universit ofcalifornia.edu/labor/fees-chart.html>

Q. Whom can I contact if I have questions or want more information about this?

A. If you have questions or want more information, please contact your local labor relations office or your local union representative.

5. Respondent issued the communications referenced in paragraphs 3 and 4 without having afforded Charging Party an opportunity to meet and confer over these communications' content or the opportunity to accompany them with a communication provided by Charging Party.

6. From approximately July 23 to August 27, 2018, Respondent posted copies of the letter referenced in paragraph 3 and the FAQ referenced in paragraph 4 on bulletin boards in or around the UCLA campus.

7. From approximately July 23 to August 28, 2018, Respondent posted the FAQ referenced in paragraph 4 on publicly viewable digital monitors in or around the UCLA campus.

8. Respondent disseminated the communications referenced in paragraphs 6 and 7 without affording Charging Party the opportunity to meet and confer about their content or the opportunity to accompany them with a communication provided by Charging Party.

9. By the acts and conduct described in paragraphs 3, 4, 6, and 7, Respondent violated Government Code sections 3550.

10. By the acts and conduct described in paragraphs 3, 4, 5, 6, 7, and 8, Respondent failed and refused to meet and confer with Charging Party in violation of Government Code section 3553.

11. In addition, 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 PERB, pursuant to California Government Code sections 3563(h) and 3563.2 and California Code of Regulations, title 8, section 32640, issues this unfair practice charge COMPLAINT on behalf of PERB and ALLEGES:

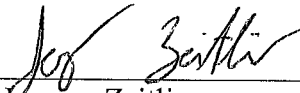
12. By the acts and conduct referenced in paragraphs 3, 4, 6 and 7, Respondent interfered with the rights of bargaining unit members to be represented by Charging Party in violation of Government Code section 3571(a) and interfered with the administration of Charging Party in violation of Government Code section 3571(d).

13. By the acts and conduct described in paragraphs 3, 4, 5, 6, 7 and 8 Respondent failed and refused to meet and confer in violation of Government Code sections 3571(b) and (c).

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

DATED: September 14, 2018

J. FELIX DE LA TORRE
General Counsel

By 
Jeremy Zeitlin
Regional Attorney

PUBLIC EMPLOYMENT RELATIONS BOARD

Office of the General Counsel
1031 18th Street
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September 11, 2018

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Re: *American Federation of State County and Municipal Employees, Local 3299 v. Regents of the University of California*
Case No. SF-CE-1188-H

University Professional and Technical Employees, CWA Local 9119 v. Regents of the University of California
Case No. SF-CE-1189-H

American Federation of State County and Municipal Employees Local 3299 v. Regents of the University
SF-PE-1-H

University Professional and Technical Employees, CWA Local 9119 v. Regents of the University of California
Case No. SF-PE-2-H

(Collectively) Injunctive Relief Request No. 757

Dear Parties:

By direction of the Board, the request for injunctive relief in the above-entitled matter is granted only as to Charging Parties' allegations that Respondent violated Government Code, section 3553 only. In addition, the Board has directed the following:

1. That the Office of the General Counsel prepare a "Notice of Alleged Violation" (Notices) for each matter that it shall issue to Respondent. The Notices shall apprise Respondent of allegations that it violated Government Code, sections 3550, 3553, and 3558. These Notices may be combined with complaints alleging related unfair labor practices.

2. That the Division of Administrative Law hold evidentiary hearings to adjudicate the alleged violations of Government Code, section 3550, 3553 and 3558, which shall proceed pursuant to the Administrative Adjudication Bill of Rights (Government Code section 11425.10 et seq.)

Sincerely,

A handwritten signature in cursive script that reads "J. Felix De La Torre". The signature is written in black ink and is positioned above the typed name.

J. Felix De La Torre
General Counsel

FDT:jfd

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento, 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, 1031 18th Street, Sacramento, CA 95811-4124.

On September 11, 2018, I served the Letter regarding Case No. SF-CE-1188-H, SF-CE-1189-H, SF-PE-1-H, and SF-PE-2-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.

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electronic service (e-mail).

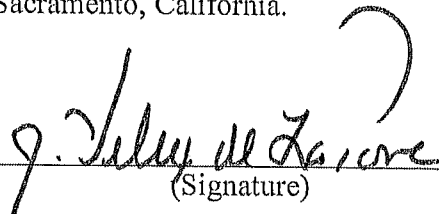
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Allison M. Woodall, Dep. General Counsel
University of California
Office of the General Counsel
1111 Franklin Street, 8th Floor
Oakland, CA 94607

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 11, 2018, at Sacramento, California.

J. Felix De La Torre
(Type or print name)


(Signature)

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 September 14, 2018, I served the Letter regarding Case No. SF-CE-1188-H on the parties listed below by

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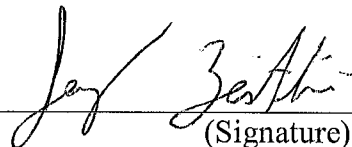
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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 14, 2018, at Oakland, California.

J. Zeitlin

(Type or print name)


(Signature)