

CLOUGHESY ARBITRATION SERVICES

SHAWN P. CLOUGHESY

Arbitrator

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MODE OF HEARING: In-Person or Videoconference
(Arbitrator does not provide hearing site for in-person arbitration hearings.)

EDUCATION: McGeorge School of Law, University of the Pacific, Juris Doctor, 1985
Admitted to Practice as Member of the California State Bar, 1986
Admitted to Practice as Member of the Federal District Court, 1986
University of California, Davis: Bachelor of Arts, Political Science, 1981

EXPERIENCE: Arbitrator:
Rosters: California State Mediation & Conciliation Arbitrators Roster
California Public Employment Relations Board Panel of Neutrals (Factfinding)
Oregon Employment Relations Board Arbitrators Roster, and
Washington Public Employment Relations Commission Arbitrators Roster.
Panel: California Faculty Association and California State University CBA
Issues: Contract Interpretation and Just Cause Discipline.
Areas of Past Service: School Districts, Universities, States, Cities and Counties, and
Law Enforcement.

Chief Administrative Law Judge and Administrative Law Judge

California Public Relations Board (PERB) August 2007 to August 2024

Conducted evidentiary hearings and wrote proposed decisions of approximately 250 unfair practice and representational proceedings for administrative agency with jurisdiction over a large number of California labor relations statutes: local governments and special districts, public school districts and community college districts, state universities, state government, public transit authorities, and the courts.

Issues Addressed: Refusals to bargain, unilateral change without meeting and conferring with exclusive representative, interference with protected activity, retaliation for protected activity, unfair practice strikes requests for employer information, domination by employer of bargaining unit representative, dual employer, confidential employee exclusion from bargaining unit and severance from bargaining unit.

Parties: *Employers*—California school districts and charter schools, California Cities and Counties (El Dorado, Lodi, Modesto, Oakland, Orange, Sacramento, San Francisco, Santa Clara, Tehama, Ventura, Woodland and Yolo), California State University, State of California (Department of Corrections and Rehabilitation, Correctional Health Care Services, Department of Health Care Services, Department of Motor Vehicles and Franchise Tax Board), and University of California.

Labor Organizations—American Federation of State County and Municipal Employees, American Federation of Teachers, California Correctional Peace Officers Association, California Faculty Association, California Nurses Association, California School Employees Association, California State University Employees Union, California Teacher Association affiliates, Deputy Sheriff Associations (Various), International Association of Firefighter affiliates, Operating Engineers, Orange County Employees Association, Police Officer Associations (Various), Professional Engineers in California Government, Public Employees Union, Registered Nurses Professional Association, Service

Employees International Union (SEIU), Stationary Engineers, Teamsters Local 2010, Union of American Physicians and Dentists, Union of Professional Technical Employees, United Automobile Workers (Graduate Students), and United Teachers of Los Angeles.

Administrative Law Judge—California State Personnel Board (SPB)
August 1994 to August 2007

Presided over, conducted hearings and wrote over 350 proposed decisions in connection with employer actions taken against state employees pursuant to various provisions of the California State Civil Service Act providing for hearings of disciplinary appeals, rejections during probation, Career Executive Assignment terminations, medical actions, constructive medical actions, discrimination complaints, denials from requests for reasonable accommodations, and whistleblower retaliation complaints; presided over and conducted hearings for disciplinary actions taken by County governments governed by the Local Agency Personnel Standards; and presided over and conducted hearings for disciplinary actions taken by the California State University as governed by the California Education Code.

Issues presented: Disciplinary legal causes presided over—absenteeism, addiction to the use of controlled substances, conflict of interest, conviction of felony or misdemeanor with moral turpitude, dishonesty, drug testing, drunkenness on duty, incompetency, inefficiency, inexcusable neglect of duty, insubordination, misuse of state property, off-duty misconduct, sexual harassment, and willful disobedience. Penalties ranging from reprimands to dismissals. Due process issues such as adequacy of charging document, impartiality of pre-disciplinary hearing officer, exclusionary rule and the California Public Safety Officers Procedural Bill of Rights.

Public Sector Agencies: *State of California, California State Universities and Counties – State:* Air Resources Board, Board of Equalization, Department of Aging, Department of California Highway Patrol, Department of Consumer Affairs, Department of Corrections and Rehabilitation, Department of Developmental Services, Department of Education, Department of Fish and Game, Employment Development Department and numerous other state agencies. *CSU:* Channel Island, Chico State, East Bay, Northridge, Sacramento, Sonoma, Sacramento, and San Jose State. *Counties:* Humboldt, Modesto, Monterey, Lassen and Trinity.

FEE AND CANCELLATION POLICY: Rate of \$2,400 is charged for each scheduled day of hearing (up to eight hours per day). Fractional days are not prorated. \$300 an hour for research, preparation and writing of the opinion and award. Cancellation fee of \$2,400 is charged for each day of hearing that is cancelled or postponed fewer than 21 calendar days in advance of the scheduled hearing.

TRAVEL: For other than videoconference cases, actual travel time charged hourly rate of \$300 from large airport (LAX, Burbank, Ontario, San Diego, Portland or Seattle or more than one hour from arbitrator's home (whichever is closer). Actual flight, lodging, rental car and gasoline reimbursed. Mileage at federal government rate to be reimbursed when using private vehicle.

COURT REPORTER: The parties are expected to make arrangements for a court reporter and are directly responsible for the costs associated with that service. In the alternative, the arbitrator will digitally record the proceedings and have the matter transcribed via contract transcriber which are paid for by the parties.