

AGREEMENT OF AUTHORITY AND RESPONSIBILITIES
OF THE BOARD AND GENERAL COUNSEL
UNDER THE AGRICULTURAL LABOR RELATIONS ACT

This agreement, entered into by the members of the Agricultural Labor Relations Board and the General Counsel in accordance with the authority granted under Labor Code sections 1142(b), 1145, and 1149, is intended to be a statement of authority and responsibilities of the parties hereto under the Agricultural Labor Relations Act (ALRA).

This agreement between the members of the Board and the General Counsel supersedes all previous Delegations or Statements of Authority. Without waiving any statutory authority, rights, or responsibilities, the individual members of the Board and General Counsel enter into this agreement in good faith and with mutual intent to adhere to the provisions hereof and to be bound hereby, unless amended or rescinded through mutual agreement of the parties.

I. Unfair Labor Practice Cases

The General Counsel has full and final authority, on behalf of the Agency and subject to the regulations of the Board, to accept and investigate charges filed, to enter into and approve informal settlement of charges, to dismiss charges, to determine matters subject to consolidation and severance, to issue complaints, to appear before administrative law judges in hearings on complaints and to prosecute complaints, and to initiate and prosecute injunction proceedings under Labor Code section 1160.4, as provided below. After issuance of a decision of an administrative law judge, the General

Counsel may file exceptions and briefs and appear before the Board in oral argument, subject to the Board's procedural rules and regulations.

The General Counsel shall have full and final authority, without approval of the Board, to seek injunctive relief pursuant to section 1160.4 of the ALRA in all cases that, in the discretion of the General Counsel, warrant such relief. Such authority shall extend to the pursuance of any appeals or defenses to appeals that may follow the initial filing in the superior court. This delegation does not prevent the General Counsel from seeking, with the approval of the Board, the assistance of attorneys employed by the Board in carrying out the authority provided by this delegation.

The General Counsel shall notify the Board when injunctive relief is sought pursuant to this delegation, provide a copy of the complaint on which the action is based, and report as to the outcome of all court proceedings. The obligations under this paragraph shall not include the provision to the Board of any facts or other information which would constitute prohibited communications under sections 20700 and 20740 of the Board's regulations (Title 8, Cal. Code Regs., secs. 20700, 20740.)

With the approval of the Board, General Counsel attorneys assigned to the regional offices may initiate and participate in proceedings in superior court for enforcement of subpoenas pursuant to Labor Code section 1151 (b).

II. Compliance with Board Orders

Subject to the Board's decisions, and in accordance with the Compliance Manual and applicable Board regulations, the General Counsel is delegated the responsibility for obtaining compliance with Board decisions and orders as set forth

herein. This responsibility includes seeking voluntary compliance with the terms of the order, litigating contested issues in accordance with the Board's regulations, entering into settlement agreements, subject to final approval of the Board, and seeking court enforcement of the terms of the order.

The General Counsel may designate a Compliance Officer, who shall have the responsibility, subject to the General Counsel's supervision, for Agency-wide coordination and supervision of all compliance cases. The Regional Directors shall have the primary responsibility for effectuating compliance, under the coordination and supervision of the Compliance Officer and/or the General Counsel. As necessary, back pay and bargaining makewhole specifications shall be prepared, consistent with the Compliance Manual and Board precedent. The Regional Directors, under the supervision of the Compliance Officer and/or the General Counsel, shall have unrestricted authority to negotiate and enter into settlements in compliance cases, subject to final approval of such settlements by the Board.

On a monthly basis or more frequently, Regional staff shall transmit data on compliance cases in order to update the computerized case tracking system. On a quarterly basis, the Compliance Officer or the General Counsel shall submit to the Board a report summarizing the status of each open compliance case. The report shall list the efforts made in furtherance of effectuating compliance, as well as additional planned efforts and an estimated time for their completion.

The Compliance Manual shall contain the general policies and procedures for handling compliance cases. The Board shall have final authority over the contents of

the manual, but the contents shall not be inconsistent with this agreement or with any rules or procedures established by case law or regulation.

The Executive Secretary will notify the Compliance Officer and the Regional Director when a case is final and no longer subject to appeal, so that compliance efforts may begin.

III. Administration, Personnel and the Agency's Budget

A. Administration

Except for personnel employed in the offices of the Board and Executive Secretary, and subject to the limitations provided in this agreement, responsibility for day-to-day administrative and personnel functions in the Agency is vested in the General Counsel. All administrative personnel in the Sacramento Headquarters office shall provide to the General Counsel and to the Board those services necessary for the proper performance of their respective responsibilities, and shall be supervised by the General Counsel when performing services for the General Counsel and supervised by the Board when providing services for the Board.

The appointment, retention, transfer, demotion, promotion, or discharge of all administrative staff providing services to both the General Counsel and Board programs shall be by recommendation of the General Counsel and approval of the Board. With regard to those services provided to the Board by administrative staff, and over which the Board has supervision, the Board may exercise discipline, with the approval of the General Counsel. With regard to those services provided to the General Counsel by

administrative staff, and over which the General Counsel has supervision, the General Counsel may exercise discipline, with approval of the Board.

B. Other Personnel

The General Counsel has final authority over the selection, appointment, retention, transfer, promotion, demotion, discipline, and discharge, and all other aspects of employment, of all personnel in the regional offices, as well as all employees in the Sacramento Headquarters office, except employees in the offices of the Board and Executive Secretary, with the exception of the Regional Directors. The General Counsel shall exercise general supervision over all employees in the regional offices as well as all employees in the Sacramento Headquarters office, except employees in the offices of the Board and Executive Secretary. General supervision shall mean that the performance of the duties of the Agency personnel included above is subject to the instructions, directions, policies and approval of the General Counsel.

C. Regional Directors

In accordance with Labor Code sections 1142(b) and 1145, the selection, appointment, retention, transfer, promotion, demotion, discipline and discharge of Regional Directors shall be upon the recommendation of the General Counsel, with the approval of the Board. In accordance with Labor Code section 1149, the General Counsel shall exercise general supervision over the Regional Directors.

D. Regional Offices and Personnel Positions

In accordance with Labor Code section 1142(b), the establishment, transfer or elimination of any regional or field office is subject to approval of the Board. In the

event that any personnel positions in a regional or field office are established or eliminated in the Agency's budget, the determination of the allocation of such establishment or elimination of personnel positions shall be made by the General Counsel.

E. Personnel Ceilings and Employee Eligibility Lists

The establishment of personnel ceilings within the Agency and the establishment of State Personnel Board employee eligibility lists shall be determined solely by the General Counsel or the Board for those positions for which either has sole responsibility. In the event both the General Counsel and the Board have the same classifications under their sole authority, personnel ceilings and employee eligibility lists for these positions may be determined jointly if the General Counsel and Board so agree. However, this does not preclude either the General Counsel or the Board from establishing personnel ceilings or employee eligibility lists for persons under their respective sole authority even if the General Counsel and the Board both employ individuals in such classifications. Personnel ceilings and employee lists for Regional Directors shall be determined jointly by the General Counsel and the Board.

F. Budget

The total amount of any annual budget requests submitted by the Agency to the Governor and the Legislature shall be a joint responsibility of the General Counsel and Board. The expenditure and use of funds within each respective allocation under the budget shall be solely in the discretion of the arm of the Agency (General Counsel/Board) to which such funds are allocated, under all applicable Department of Finance regula-

tions. Administrative staff shall assist both the General Counsel and Board in the accomplishment of their responsibilities relative to the budget.

IV. Representation and Other Election Matters

Pursuant to Labor Code section 1142(b), and subject to such instructions and rules and regulations as may be issued by the Board from time to time, the Board has delegated to Regional Directors its powers under Chapter 5 of the Act (commencing with Labor Code section 1156) to determine the unit appropriate for the purpose of collective bargaining, to determine whether a question of representation exists, and to direct and conduct elections by secret ballot.

The Regional Directors are authorized and have responsibility, on behalf of the Board and in accordance with such instructions and rules and regulations as may be issued by the Board from time to time, to facilitate the receipt and processing of all petitions filed pursuant to Chapter 5 of the Act. The Board shall supervise the Regional Directors and regional staff in the performance of their duties pursuant to Chapter 5 of the Act.

V. Internal Procedures and Rules

Operational procedures, rules and policies relative to the internal business of the Agency solely within the area under the supervision and direction of the General Counsel shall be prepared and promulgated by the General Counsel. Operational procedures, rules and policies relative solely to the business of the Agency within the area under the supervision and direction of the Board shall be prepared and promulgated by the Board. Operational procedures, rules and policies relative to the internal business

of the Agency as a whole shall be prepared and promulgated jointly by the General Counsel and the Board.

This agreement supersedes all prior agreements or statements of authority, whether issued by the Board, the General Counsel, or jointly, to the extent that such agreements or statements of authority address any of the subject matter areas contained in this agreement.



GENEVIEVE A. SHIROMA, Member

Dated: 7/8/10



CATHRYN RIVERA-HERNANDEZ, Member

Dated: 7/8/10



WILLIE C. GUERRERO, Member

Dated: 7/8/10



MICHAEL LEE, General Counsel

Dated: 7/8/10