

**United Labor Center**

3737 Camino Del Rio South, Suite 407  
San Diego, CA 92108  
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**OCHOA LEGAL GROUP**  
*Lawyers Working for Social and Economic Justice*

February 27, 2015

**VIA U.S. MAIL AND EMAIL**

Public Employment Relations Board  
ATTN: Regional Director  
Los Angeles Regional Office  
700 N. Central Avenue, Suite 200  
Glendale, CA 91203-3219  
[PERBe-file.LARO@perb.ca.gov](mailto:PERBe-file.LARO@perb.ca.gov)

Re: Poway School Employees Association v. Poway Unified School District

Dear Regional Director:

Enclosed please find an original plus one copy of an Unfair Practice Charge and its attachments for filing by the Poway School Employees Association (“PSEA”) against the Poway Unified School District (“District”) regarding the District’s failure to “sunshine” its current negotiations with its certificated bargaining unit. This charge is also being e-filed today. Please be advised that our office represents PSEA in this matter and we ask that all correspondence be through our office.

Please let me know if you have any questions or concerns with regard to this matter.

Very truly yours,

Ricardo Ochoa  
Ochoa Legal Group

cc: Tracy Hogarth, Associate Superintendent, Poway Unified School District (*via email and U.S. Mail*)  
Gerald A. Conradi, Attorney, Atkinson, Andelson, Loya, Ruud & Romo (*via email*)  
John Collins, Superintendent, Poway Unified School District (*via email*)  
Poway Unified School District Governing Board Members (*via email*)  
Lynnette Turner, PSEA President (*via email*)



**STATE OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD  
UNFAIR PRACTICE CHARGE**

**DO NOT WRITE IN THIS SPACE:** Case No: \_\_\_\_\_ Date Filed: \_\_\_\_\_

**INSTRUCTIONS:** File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at [www.perb.ca.gov](http://www.perb.ca.gov). If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES  If so, Case No. \_\_\_\_\_ NO

1. CHARGING PARTY: EMPLOYEE  EMPLOYEE ORGANIZATION  EMPLOYER  PUBLIC<sup>1</sup>

a. Full name: Poway School Employees Association

b. Mailing address: 13378 Poway Road, Poway, CA 92064

c. Telephone number: (858) 859-7968

d. Name and title of person filing charge: Ricardo Ochoa, Attorney, Ochoa Legal Group E-mail Address: rochoa@union-attorneys.org  
Telephone number: (619) 285-1662 Fax No.: (619) 285-1760

e. Bargaining unit(s) involved: Certificated

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION  EMPLOYER

a. Full name: Poway Unified School District

b. Mailing address: 15250 Avenue of Science, San Diego, CA 92128

c. Telephone number: (858) 521-2800

d. Name and title of agent to contact: Tracy Hogarth, Associate Superintendent E-mail Address: thogarth@powayusd.com  
Telephone number: (858) 521-2800 ext. 2761 Fax No.: (858) 485-1355

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:

b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Government Code section 18524.)

a. Full name:

b. Mailing address:

c. Agent:

<sup>1</sup> An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.  
PERB-61 (7/22/2014)

**5. GRIEVANCE PROCEDURE**

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes  No

**6. STATEMENT OF CHARGE**

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code sec. 3540 et seq.)
- Ralph C. Dills Act (Gov. Code sec. 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code sec. 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code sec. 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code sec. 99560 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code sec. 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code sec. 71800 et seq.)
- In-Home Supportive Services Employer-Employee Relations Act (Gov. Code, § 110000 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are: **Government Code Section 3547**

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (*a copy of the applicable local rule(s) MUST be attached to the charge*):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

See Attachment A

**DECLARATION**

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on February 27, 2015 (Date)

at San Diego, California (City and State)

Ricardo Ochoa, Esq.

(Type or Print Name)

 (Signature)

Title, if any: Attorney

Mailing address: Ochoa Legal Group, 3737 Camino Del Rio South, Suite 407, San Diego CA 92108

Telephone Number: (619) 285-1662 E-Mail Address: rochoa@union-attorneys.org

## ATTACHMENT A

### Amended Unfair Practice Charge

#### Poway School Employees Association v. Poway Unified School District

The Poway School Employees Association (“PSEA”) is an employee organization as defined by Section 3540.1(e) of the Act, the exclusive representative of the Office, Technical, and Paraprofessional unit at the Poway Unified School District (“District”), and an “affected member of the public” as defined in PERB Regulation 32602. The Poway Federation of Teachers (“PFT”) is an employee organization and the exclusive representative of the Certificated unit at the District.

PSEA and the District have been engaged in reopener negotiations for the 2014-2015 school year since March 17, 2014. On or about November 19, 2014, in response to an inquiry by PSEA during negotiations, the District informed PSEA that it was not currently negotiating with PFT. On or about January 30, 2015, the District informed PSEA for the first time that it was now negotiating with PFT for wage increases to the Certificated unit for the 2014-2015 school year and “expected to wrap up these negotiations within a few weeks.”

Unlike in the current negotiations with PSEA, the District failed to provide the public with notice of, or an opportunity to be heard regarding, the District’s (or PFT’s) initial proposals for these negotiations before the District began meeting and conferring with PFT over wage increases for the 2014-2015 school year, as required by Section 3547, subsections (b) and (c). As a result, the District deprived the public of the opportunity to be informed of the issues that the District and PFT are negotiating, and further deprived the public of a full opportunity to express its views on these issues to the District’s Governing Board, as required by Section 3547, subsection (e).

Because the District failed altogether to conduct any public notice and hearing concerning the current negotiations with PFT, the six-month statute of limitations under Section 3541.5(a)(1) did not start to run until PSEA learned on January 30, 2015 that the District was currently negotiating with PFT in violation of Section 3547, rendering the present charge timely.

#### **REMEDY REQUESTED:**

- That the current negotiations with PFT be held unlawful and without any legal effect;
- That the District:
  - Post at the District Office and on the District’s website for 30 days, publish in a newspaper of general circulation, and disseminate by e-mail to all District employees a notice informing the community of the District’s violation of the Act, advising the community of its rights under the Act, and notifying the community of the remedy granted;
  - Cease and desist from meeting and conferring with PFT until it has concluded implementing the remedy ordered and complied with Section 3547;
  - Refrain from issuing any public notice of initial proposals to PFT until the aforementioned notices have been published and posted for 30 days, in order to allow the taint of the violation to dissipate; and
- Any other relief which is appropriate.

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of San Diego, State of California. I am over the age of 18 years. The name and address of my residence or business is Ochoa Legal Group, 3737 Camino Del Rio South, Suite 407, San Diego, CA 92108.

On February 27, 2015, I served the Unfair Practice Charge  
(Date) (describe document(s))

on the parties listed below (include name, address and, where applicable, fax number) by (check the applicable method or methods):

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;

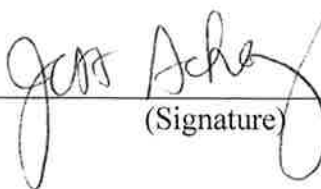
facsimile transmission in accordance with the requirements of PERB Regulations 32090 and 32135(d).

Tracy Hogarth, Associate Superintendent  
Poway Unified School District  
15250 Avenue of Science  
San Diego, CA 92128

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 27, 2015, at San Diego, California.

Jessica Sanchez

(Type or print name)

  
(Signature)