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10  
11 **STATE OF CALIFORNIA**  
12 **PUBLIC EMPLOYMENT RELATIONS BOARD**

13 SERVICE EMPLOYEES INTERNATIONAL  
UNION (SEIU),

14 Charging Party,

15 v.

16 STATE OF CALIFORNIA (GOVERNOR'S  
OFFICE),

17 Respondent.  
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Case No: SA-CE-2282-S

**RESPONDENT'S OPPOSITION TO  
CHARGING PARTY'S MOTION TO  
EXPEDITE**

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**INTRODUCTION**

Respondent opposes Charging Party's (SEIU's or Union's) motion to expedite on the grounds the motion fails to establish any genuine urgency or irreparable harm warranting expedited processing. The Union relies on generalized claims about the number of employees affected and speculative projections of financial or operational impact, but fails to demonstrate that expedited review is necessary to prevent irreparable harm or preserve an effective remedy. The charge can be fully and fairly addressed through PERB's standard procedures, and the Union identifies no urgent or exceptional circumstances warranting departure from the normal process.

**BACKGROUND**

SEIU represents state employees in Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, 21 and is a signatory to the current SEIU MOU's, which remain in effect through June 30, 2026. Section 21.1(D) of the SEIU MOU expressly provides that departments may modify existing telework policies, subject only to impact bargaining. As noted in Respondent's position statement, SEIU has historically accepted and operated under this framework without objection.

On March 3, 2025, Governor Gavin Newsom issued Executive Order N-22-25, directing all state agencies and departments under his authority to implement a hybrid telework policy with a default minimum of four in-office workdays per week, effective July 1, 2025, subject to certain exceptions.

The Order was similar to action the Governor took nearly a year ago, on April 10, 2024, in which he directed state agencies and departments to implement policies with an expectation of at least two in-person days per week, subject to case-by-case exceptions. (Declaration of Paul Starkey (Starkey Decl.), ¶ 4, Exh. B.)<sup>1</sup> Just as in the present case, SEIU was given advanced notice of the change at the time and provided an opportunity to bargain over impact. (*Id.* at ¶¶ 5-7, Exh. C.)

Following the issuance of the most recent Executive Order N-22-25, SEIU was similarly notified of the Order and offered the opportunity to meet and confer over impact in accordance with section 21.1(D) of the MOU. (Starkey Decl., ¶ 3, Exh. A.) Despite this offer, SEIU has not yet requested

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<sup>1</sup> This is the same declaration that was previously filed in support of Respondent's position statement. For ease of reference, the declaration is being re-filed along with Respondent's present opposition to SEIU's motion to expedite.

1 bargaining on this issue and instead has filed the present Unfair Practice Charge (UPC or Charge).  
2 (*Ibid.*)

3 On March 6, 2025, SEIU filed the present UPC with PERB. On April 7, 2025, Respondent filed  
4 a position statement and notice of election to defer to arbitration in opposition to the charge.

5 For the reasons discussed below, SEIU's motion to expedite should be denied.

7 **ARGUMENT**

8 In determining whether to grant expedited review under PERB regulation 32147,<sup>2</sup> PERB  
9 considers the following factors:

- 10 • Whether expedited processing is necessary to preserve the Board's  
11 ability to issue an effective remedy;
- 12 • Whether the case involves alleged conduct that would irreparably harm  
13 the exercise of employee or employee organization rights;
- 14 • Whether the case involves an important and unresolved question of law,  
15 the prompt resolution of which would significantly benefit one or more  
16 segments of the public sector labor-management community;
- 17 • Whether the case arises from or relates to a representation or recognition  
18 dispute;
- 19 • Whether a court injunction is in place pending resolution of the case;
- 20 • The number of employees affected, the size of any potential monetary  
21 remedy, or the nature, scope, or importance of any potential non-  
22 monetary remedy; and
- 23 • Any compelling circumstances showing that expedited processing is  
24 warranted.

25 Here, SEIU contends Governor Newsom's Executive Order is an unlawful unilateral change that  
26 will broadly affect over 30,000 state employees. The Union claims the Order strips employees of a  
27 \$50/month remote work differential which could result in backpay claims reaching millions of dollars.  
28 In addition, the Union claims the Order imposes added commuting costs, while simultaneously costing  
the state an estimated \$235 million annually to reacquire office space. Lastly, SEIU suggests the Order  
is not based on operational necessity but a politically motivated effort to support struggling downtown

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<sup>2</sup> As used to herein, "PERB regulation" refers to the code sections set forth in the California  
Code of Regulations, title 8, section 31001 *et seq.*

business districts. Citing these alleged financial and policy inconsistencies, the Union urges PERB to expedite review. The Union's motion must be rejected for the following reasons.

**I. The Number of Affected Employees Alone Does Not Justify Expedited Review.**

The Union contends expedited processing is warranted because Executive Order N-22-25 affects a large number of employees. While it is true that the Order affects a substantial number of state employees, sheer numbers alone do not justify expedited treatment. (See PERB Reg. § 32147 [listing the number of employees affected as just one of many criteria to be considered].) Public sector labor relations routinely involve issues impacting large numbers of employees,<sup>3</sup> yet SEIU cites not a single case in which PERB has ever granted expedited treatment solely due to the number of affected employees. PERB's expedited processing criteria require more than just a broad impact; they require a demonstration of an urgent, immediate, and irreparable harm that cannot be adequately addressed through normal processes. (See PERB Reg. § 32147.) SEIU has not met this standard.

**II. Any Alleged Harm Is Fully Remediable Through PERB's Standard Procedures.**

The Union also argues that if the Executive Order remains in effect, employees will face increased commuting costs and will also lose the \$50/month remote work differential, which could result in a make whole remedy in millions of dollars. This argument is fundamentally flawed, as it ignores the reality that any alleged harm is fully remediable through PERB's standard adjudicative procedures.

Even if SEIU ultimately prevails, PERB has broad authority to order corrective remedies, including reinstating prior telework conditions, awarding compensation for actual harm suffered, or ordering any other necessary relief. (Gov. Code, § 3514.5.) The availability of these post-hearing remedies eliminates the need for expedited processing. (See, e.g., *Fremont Unified School Dist.* (1990)

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<sup>3</sup> See, e.g., *State of California (Department of Personnel Administration)* (2011) PERB Dec. No. 2210-S [36 PERC ¶ 64] [involving alleged unilateral change affecting all state employees]; *State of California (Department of Personnel Administration)* (2009) PERB No. 2078-S [34 PERC ¶ 11] [same].

1 PERB Order No. IR-54, p. 8, [holding that immediate remedies are unwarranted when PERB's standard  
2 procedures can adequately resolve the dispute].)

3 The only effect of allowing the Executive Order to remain in place is that some employees may  
4 be required to work in the office two more days per week than they did previously (but still less than  
5 they did prior to the COVID-19 pandemic, when employees generally worked in-person full-time). This  
6 slight modification to employees' reporting locations does not constitute an irreparable injury, as PERB  
7 can fully remedy any proven violation after adjudication such as back pay and/or a cease-and-desist  
8 order. (Gov. Code, § 3514.5; see also *Regents of the University of California* (2019) PERB No. IR-62-  
9 H.) Because any alleged harm is fully remediable through PERB's normal adjudicative process, there is  
10 no justification for expedited processing, and PERB should allow the case to proceed according to  
11 normal case-processing timelines.

12  
13 **III. SEIU's Failure to Object to Similar Past Actions Undermines Its Claim of Urgency.**

14 In addition, SEIU's current claim that expedited review is necessary rings hollow when viewed  
15 in light of its past inaction. On April 10, 2024, the Governor issued a statewide directive requiring  
16 agencies and departments to implement telework policies with a minimum of two in-person days per  
17 week. (Starkey Decl., ¶ 4.) SEIU raised no formal legal objection to that directive, nor did it file an  
18 unfair practice charge or seek expedited review. (*Id.* at ¶ 7.) The Governor's more recent Executive  
19 Order, which adjusts the default expectation from two to four in-person days per week, is consistent with  
20 that prior policy shift, as well as section 21.1(D) of the MOU, which contemplates departmental  
21 discretion to initiate such changes. The Union's acquiescence to prior similar statewide changes as well  
22 as the MOU provisions contemplating such changes, strongly suggests that no genuine or urgent harm  
23 arises from the current directive.

24  
25 **IV. The Union's Claims About the Governor's Political Motivations and the Fiscal Impact of**  
26 **the Executive Order Are Irrelevant to Determining Whether Expedited Review is**  
27 **Appropriate.**

28 The Union further argues that expedited review is warranted because the Executive Order is  
politically motivated, disregards the proven cost-savings of remote work, and will impose hundreds of

1 millions in unnecessary annual costs on the state. This argument is wholly misplaced and irrelevant  
2 under the applicable legal standard. PERB regulation 32147 does not recognize “political intent” or  
3 disagreement with executive priorities as a valid basis for expedited processing. The Union fails to cite  
4 any legal authority suggesting that a perceived political motivation has any bearing on whether a matter  
5 should be expedited.

6 Moreover, Respondent vigorously disputes the Union’s insinuation that the Governor’s motives  
7 for the Executive Order are improper or pretextual. These claims are not only unsubstantiated, but  
8 entirely inappropriate in this forum. The Executive Order reflects a legitimate policy determination  
9 concerning the structure and function of the state workforce—an area where the Governor has clear  
10 authority. This Board’s role is not to second-guess lawful policy decisions made by the executive  
11 branch, nor to assess or resolve political disagreements between the Governor and employee  
12 organizations. The Union’s arguments instead amount to generalized policy disagreements, not the type  
13 of urgent or exceptional circumstances that PERB has recognized as justifying expedited handling.

14  
15 **V. Neither the Alleged Benefits of Remote Work, Nor SEIU’s Speculative Claims About the  
Consequences of the Executive Order Are Sufficient to Justify Expedited Review.**

16 The Union’s position regarding the benefits of remote work has no bearing on whether to  
17 expedite the present matter. The relevant issue is not whether telework may have certain advantages,  
18 nor whether some agencies have utilized it effectively, but whether the matter is appropriate for  
19 expedited review. The Union’s assertions about recruitment, retention, and employee satisfaction are  
20 speculative and ultimately immaterial to the statutory standards governing expedited processing.

21 Importantly, the Executive Order does not eliminate telework; it preserves it by allowing  
22 employees to telework at least one day per week, thereby acknowledging the value of remote work  
23 while setting a consistent baseline. Moreover, the Order expressly grants departments and agencies  
24 discretion to authorize additional telework days based on operational needs and specific job  
25 responsibilities. Rather than undermining remote work, the policy strikes a reasonable balance—  
26 recognizing the benefits of telework while also promoting in-person collaboration and accountability—  
27 and preserves agency-level flexibility to expand telework where appropriate and consistent with the  
28 Governor’s broader policy objectives.

1           Additionally, the Union’s predictions of a staffing crisis or recruitment shortfalls are not only  
2 speculative, they are also unfounded. There is no credible evidence that such outcomes are likely to  
3 occur, and the Respondent vigorously disputes the suggestion the Executive Order will produce the dire  
4 consequences the Union predicts. Even assuming, for the sake of argument, that operational challenges  
5 were to arise, those are matters the Governor alone is responsible for assessing and weighing against the  
6 benefits of in-person work. PERB’s expedited review is reserved for cases involving irreparable harm  
7 or important legal questions—not for hypothetical scenarios or generalized dissatisfaction with  
8 statewide policy directions. While the Union may disagree with the wisdom of the Governor’s current  
9 approach, that disagreement does not constitute an unfair labor practice—let alone one that warrants  
10 expedited treatment.

11  
12 **VI. Routine Departmental Planning Does Not Justify Expedited Review.**

13           Lastly, SEIU claims that expedited review is warranted because departments are preparing to  
14 secure leases and make operational changes. This claim, too, is unavailing. Routine logistical planning  
15 by departments in anticipation of a policy’s future effective date does not constitute the type of urgent,  
16 irreparable harm that PERB’s expedited process is designed to address. Departments routinely plan for  
17 changes brought about by policy implementation, and doing so does not limit PERB’s ability to order  
18 meaningful relief if a violation is ultimately found.

19           Moreover, SEIU offers no evidence that any irreversible decisions are imminent or unavoidable  
20 before PERB can process the charge under its normal timeline. If PERB were to determine at a later  
21 stage that the Executive Order should be rescinded or modified, it could fashion appropriate remedies,  
22 including restoration of prior telework policies or make-whole relief. There is simply no credible  
23 showing that such administrative planning will frustrate PERB’s jurisdiction or render any final decision  
24 ineffectual.

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**CONCLUSION**

For the foregoing reasons, Respondent respectfully requests that PERB deny Charging Party's motion to expedite, as it fails to demonstrate any legitimate urgency or irreparable harm justifying expedited relief.

Dated: April 15, 2025

Respectfully Submitted,

FROLAN R. AGUILING  
Chief Counsel

SANDRA L. LUSICH  
Deputy Chief Counsel

By:



DAVID M. VILLALBA  
Principal Labor Relations Counsel  
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11 STATE OF CALIFORNIA  
12 PUBLIC EMPLOYMENT RELATIONS BOARD

13 SERVICE EMPLOYEES INTERNATIONAL  
UNION (SEIU),

14 Charging Party,

15 v.

16 STATE OF CALIFORNIA (GOVERNOR'S  
OFFICE),

17 Respondent.  
18

PERB Case No.: SA-CE-2282-S

**DECLARATION OF PAUL M. STARKEY IN  
SUPPORT OF RESPONDENT'S POSITION  
STATEMENT AND ELECTION TO DEFER  
TO ARBITRATION**

19  
20 I, PAUL M. STARKEY, declare as follows:

21 1. I am employed as the Deputy Director of Labor Relations with the California Department  
22 of Human Resources (CalHR), and in that capacity, I am familiar with labor relations procedures,  
23 including the notification requirements related to changes affecting bargaining unit employees.

24 2. This declaration is made in support of respondent's position statement in the above-  
25 captioned matter.

26 3. To the best of my knowledge and based on available records, the following notifications  
27 were provided to SEIU:  
28

- On March 3, 2025, CalHR, through its Labor Relations Division and under my signature, issued a written notice via email to SEIU, and all impacted employee representatives, regarding implementation of a minimum four-day per week in-office policy for employees by Executive Order N-22-25. A true and correct copy of this notice is attached as **Exhibit A**.
- In the March 3 written notice, I invited all employee representatives, including SEIU, to meet and confer regarding the impacts of the Executive Order. A true and correct copy of this notice is attached as **Exhibit A**.
- On March 5, SEIU Chief Counsel notified me via email of SEIU's intent to file an unfair practice charge in response to Executive Order N-22-25. Except for this communication, to date, SEIU has not responded to me or anyone in the Labor Relations Division by email or telephone acknowledging receipt of the notice and/or requesting to bargain over the above changes.

4. Additionally, SEIU was notified of the Administration's April 10, 2024 directive, under signature of Cabinet Secretary Ann Patterson, which directed all state agencies and departments to implement a minimum two-day per week in-office policy for employees. A true and correct copy of the Patterson letter is attached hereto as **Exhibit B**.

5. On April 10, 2024, I provided written notice via email to all employee representatives, including SEIU, and offered the opportunity to meet and discuss the impact of this directive. A true and correct copy of the notice given to SEIU about the order is attached as **Exhibit C**.

6. To the best of my knowledge and based upon available records, SEIU did not meet with CalHR but had the opportunity to meet separately with departments concerning the impact of the implementation of the April 10 directive.

7. To the best of my knowledge and based on available records, SEIU did not file any formal legal objection, unfair labor practice charge, or grievance regarding the April 10, 2024 directive at or after the time it was issued. I am aware of no record of SEIU asserting that this directive constituted a unilateral change requiring additional bargaining under the Dills Act or the Memorandum of Understanding between the State and SEIU.

1           8.     In addition, prior to the COVID-19 pandemic, most state employees were not teleworking  
2 full-time. During the COVID-19 pandemic most state employees were required to telework full-time  
3 from home. To the best of my knowledge and based on available records, SEIU did not object to this  
4 change.

5           I declare under penalty of perjury under the laws of the State of California that the foregoing is  
6 true and correct.

7  
8 Executed on this 7th day of April, 2025, at West Sacramento, California.

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11                                 Paul M. Starkey  
12                                 PAUL M. STARKEY  
13                                 Deputy Director of Labor Relations, CalHR  
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# Exhibit A

**Starkey, Paul@CalHR**

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**From:** LRinfo  
**Sent:** Monday, March 3, 2025 3:34 PM  
**To:** LIST-ExclusiveRepresentatives; LIST-SupervisoryOrExcludedOrgs  
**Cc:** LIST-EmployeeRelationsOfficers  
**Subject:** Notice: Executive Order – N-22-25 re Return to Office

March 3, 2025

Labor Union Organizations  
Excluded Employee Organizations

RE: Notice: Executive Order – N-22-25 re Return to Office

Dear Labor Leaders,

Executive Order N-22-25, relating to return to office and issued today, requires all agencies and departments that provide telework as an option for employees to increase from two to four in-person days per work week beginning July 1, 2025. Here is a [link to the Executive Order](#).

As stated in the Executive Order, this direction is to maximize the benefits of in-person work, among them, enhanced collaboration, cohesion, creativity, mentoring, “and improved supervision and accountability for delivering services to the public and to maintain public confidence in the efficiency and effectiveness of state government.”

Agencies and departments will provide timely and separate notice of any operational changes to be made in response to the Executive Order.

If you wish to discuss the impact of the Executive Order, please contact me at [Paul.Starkey@CalHR.ca.gov](mailto:Paul.Starkey@CalHR.ca.gov) to schedule those discussions.

Sincerely,

*Paul*

**Paul M. Starkey**  
Deputy Director of Labor Relations  
[California Department of Human Resources](#)

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# Exhibit B





## OFFICE OF THE GOVERNOR

April 10, 2024

Dear Cabinet Secretaries,

I write to provide a further update about our ongoing conversations around the Administration's efforts to innovate and evolve how the state's workers get work done effectively on behalf of Californians in a hybrid environment.

Nearly four years have passed since the COVID-19 pandemic precipitated change. Although about half of state workers were in jobs that required them to continue coming into the office, others shifted to a hybrid model or full-time telework. Based on our experience and research that has emerged during that time, we are in a different place today as a society and as state agencies serving the public.

The Governor's Office previously directed all agencies and departments within the Administration to regularly evaluate and update their telework policies based on their individual operational needs. We also made clear that the Administration believes there are significant benefits to in-person work—enhanced collaboration, cohesion, and communication, better opportunities for mentorship, particularly for workers newer to the workforce, and improved supervision and accountability—that should be balanced with the benefits and increased flexibility that telework provide, through a hybrid approach. To this point, however, we have not mandated a minimum number of in-person days that agencies and departments should implement for state staff.

I appreciate the efforts by many agencies and departments to reevaluate their policies. A number of agencies successfully implemented hybrid policies with minimum in-person-day expectations last year, with minimal disruptions. Others announced earlier this year that they are transitioning to hybrid approaches in the coming weeks, while some have yet to make any changes to their policies.

Unfortunately, the varied approaches have created confusion around expectations and are likely to exacerbate inconsistencies across agencies and

departments. Accordingly, we have determined that it is now necessary to direct all agencies and departments within the Administration that provide telework as an option for employees to implement a hybrid telework policy with an expectation of at least two in-person days per week, with case-by-case exceptions to be considered as detailed below.

This approach will ensure all agencies and departments experience the benefits of in-person work, while still affording staff the benefits and flexibility of telework. Agencies and departments should continue to consider their individual operational needs in implementing this directive. Employee requests for more than three telework days per week should continue to be considered on a case-by-case basis (e.g., in requests for reasonable accommodation), as required by the applicable MOU, and approved or denied based on individual circumstances and the specific needs and objectives of the department. I also want to make clear that agencies and departments that have already implemented or are in the midst of implementing a transition to hybrid work consistent with this directive should continue to do so.

CalHR will notice our labor partners about this directive and its implementation date of June 17, 2024. Agencies and departments are expected to implement this directive on that date. This implementation timeframe does not apply to departments that have already announced an earlier implementation date for their return to office policy.

As I have said, we continue to support telework and believe this transition to a hybrid structure will promote greater collaboration and cohesion across our teams that will enhance our ability to serve all Californians effectively. We will continue to evaluate this approach in the coming weeks and months, and we may make further adjustments in the future. I look forward to continued dialogue on this.

Sincerely,



Ann Patterson  
Cabinet Secretary

# Exhibit C

**Starkey, Paul@CalHR**

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**From:** LRinfo  
**Sent:** Wednesday, April 10, 2024 4:49 PM  
**To:** LIST-ExclusiveRepresentatives; LIST-SupervisoryOrExcludedOrgs  
**Cc:** LIST-EmployeeRelationsOfficers  
**Subject:** Hybrid work  
**Attachments:** 04-10-24 letter to cabinet secretaries re hybrid work.pdf

April 10, 2024

Dear Labor Leaders,

I am sharing with you for information a directive issued today from the Office of the Governor to cabinet secretaries about hybrid work, which is attached. The implementation date for the directive is June 17, 2024.

If you wish to discuss this notice or the attached communication, please contact me at [paul.starkey@calhr.ca.gov](mailto:paul.starkey@calhr.ca.gov).

*Paul*

**Paul M. Starkey**  
Deputy Director of Labor Relations  
[California Department of Human Resources](#)



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## PROOF OF SERVICE

I declare that I am a resident of or employed in the County of \_\_\_\_\_,  
State of \_\_\_\_\_. I am over the age of 18 years. The name and address of my  
Residence or business is \_\_\_\_\_

On \_\_\_\_\_, I served the \_\_\_\_\_  
(Date) (Description of document(s))

\_\_\_\_\_ in Case No. \_\_\_\_\_.  
(Description of document(s) continued) PERB Case No., if known)

on the parties listed below by (check the applicable method(s)):

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;

electronic service - I served a copy of the above-listed document(s) by  
transmitting via electronic mail (e-mail) or via e-PERB to the electronic service  
address(es) listed below on the date indicated. *(May be used only if the party  
being served has filed and served a notice consenting to electronic service or has  
electronically filed a document with the Board. See PERB Regulation 32140(b).)*

*(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)*

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct and that this declaration was executed on \_\_\_\_\_,  
(Date)  
at \_\_\_\_\_.  
(City) (State)

*Carla Caesar*

(Type or print name)

(Signature)