

**FACTFINDING PROCEEDINGS
PURSUANT TO THE MEYER-MILIAS-BROWN ACT**

COUNTY OF SACRAMENTO,

Public Agency,

and

UNITED PUBLIC EMPLOYEES,

Exclusive Representative.

PERB CASE NO. SA-IM-258-M

FACTFINDING REPORT AND
RECOMMENDATIONS FOR
SETTLEMENT

(February 5, 2026)

Chairperson:	Shawn P. Cloughesy, Arbitrator
Public Agency Panel Member:	Jennifer Saetern, Division Manager Department of Human Assistance County of Sacramento
Exclusive Representative: Panel Member:	Stephanie McCall, Union Representative United Public Employees
Representatives for the Public Agency:	Jerry Camous, Labor Relations Officer Jamie Jackson, Program Manager County of Sacramento
Representatives for the Exclusive Representative:	John Bonilla, Business Agent James Starr, Union Representative United Public Employees

PROCEDURAL BACKGROUND

On December 22, 2025, the United Public Employees (UPE) filed a request for factfinding pursuant to the Meyers-Milias-Brown Act (MMBA) with the Public Employment Relations Board (PERB or Board) regarding the County's proposed reinstatement of a weekly feedback productivity report (weekly feedback report) within

the Department of Human Assistance (DHA), County of Sacramento (County). The request included the Association's December 22, 2025 Declaration of Impasse which, in effect, stated that UPE and the County could not come to an agreement on the implementation of the proposed reinstatement of the weekly feedback reports.

Specifically, the declaration stated in pertinent part:

"Representatives from [UPE] . . . met with [the County] . . . to discuss implementing [the distribution of employee weekly] feedback reports. While UPE and its bargaining team recognized that the department wanted to implement this policy, we did not agree with the proposed implementation in its current form.

"The department proposed averaging all workers' performance within each unit to identify individual shortcomings. Currently, there are no production standards in Sacramento County, and UPE has consistently opposed such policies. Under the proposed approach, DHA management would use these averages in one-on-one meetings to compare employees. UPE repeatedly explained that we could not support this, as it could foster competition among employees and create pressure to meet uniform production levels. The County would not agree to exclude this information from these meetings."¹

On December 24, 2025, PERB approved UPE's factfinding request. On January 6, 2026, the parties notified PERB that they had selected the undersigned arbitrator as the factfinding panel chairperson (Chair). On January 6, 2026, the parties selected their factfinding panel members and on January 14, 2026, PERB notified the undersigned arbitrator that he had been selected as the Chair.

On January 12, 2026, the Chair held an organizational meeting where the agenda of the factfinding proceeding, factfinding proceeding date, options for closing

¹ This section of the impasse request is quoted as it succinctly summarizes the argument of UPE in this matter.

arguments, and issuance date of the factfinding report and recommendation(s) for settlement (factfinding report) were discussed. The parties agreed that the factfinding proceeding would be scheduled for January 21, 2026; there would not be written or closing argument; and the factfinding report would be issued by February 11, 2026.

The factfinding proceeding was held and concluded on January 21, 2026. Both parties presented arguments and submitted exhibits surrounding the issue(s) in dispute. Rather than present closing arguments,² the parties agreed to submit the matter to the factfinding panel for the issuance of a factfinding report.

STATEMENT OF THE ISSUE(S)

The County proposed that it wanted to reinstate the distribution of weekly feedback reports within the DHA. The weekly report would set forth the productivity of its Office Assistants, Senior Office Assistants and Human Services Specialists (HSS) in the various tasks which these represented employees completed, as well as the average tasks completed per week within their departmental units. The County wanted DHA employees to be notified how they were performing compared to the average production of other employees within the same classification in their units. UPE opposed the County's utilization of the average task completed by unit per week as part of the weekly production report as it set a performance standard for the represented employees. The factfinding panel was to consider and evaluate the

² The parties submitted extensive statements of the issue(s) prior to the factfinding proceeding which became the equivalent of their opening and closing arguments.

County's proposal and UPE's objection pursuant to the criteria set forth in Government Code section 3505.4, subdivision (d)(1) through (8).

STATUTORY CRITERIA

Government Code section 3505.4, subdivision (d) sets forth the statutory criteria that factfinders shall "consider, weigh, and be guided by" in arriving at findings and recommendations and provides:

- "(1) State and federal laws that are applicable to the employer.
- "(2) Local rules, regulations, or ordinances.
- "(3) Stipulations of the parties.
- "(4) The interests and welfare of the public and the financial ability of the public agency.
- "(5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
- "(6) The consumer price index for goods and services, commonly known as the cost of living.
- "(7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- "(8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations."

FINDINGS OF FACT

Background

UPE is the exclusive representative of the Office and Technical unit of employees, which includes the classifications of Office Assistant and Senior Office Assistant, and the Welfare Non-Supervisory unit of employees, which includes the classification of HSS. UPE and the County have a Memorandum of Understanding (MOU) which governs the term period of July 1, 2025 through June 30, 2028 for the Office and Technical unit and an MOU with a term period of August 24, 2025 through June 30, 2028 for the Welfare Non-Supervisory unit.

The DHA administers public assistance benefits and basic employment services in governmental programs, such as Medi-Cal,³ CalFresh⁴ and CalWORKs,⁵ to eligible applicants who apply for such benefits/services with DHA. The eligibility of such applicants is determined by employees in the HHS classification. Many of the HHS employees employed with DHA are located in DHA Service Centers. DHA is

³ The Medi-Cal program is primarily found in Welfare and Institutions Code section 14000 et seq. and the program provides health care benefits to those who lack sufficient income.

⁴ The CalFresh program is primarily found in Welfare and Institutions Code section 18900 et seq. and is California's implementation of the federal Supplemental Nutrition Assistance Program (SNAP)—formerly referred to as food stamps.

⁵ The CalWORKs program is also known as the California Work Opportunities and Responsibilities to Kids Act and is set forth in Welfare and Institutions Code section 11200 et seq. CalWORKs is California's implementation of the federal Temporary Assistance for Needy Families plan. (Welfare and Institutions Code section 11203.)

structured so that one Human Services Supervisor (Supervisor) supervises nine HHS employees in one departmental unit.

MOU between UPE and the County

MOU Articles 18.5 of the Office and Technical unit and 19.5 of the Welfare Non-Supervisory Unit, "Cause for Disciplinary Action," both provide the following:⁶

"No disciplinary action shall be taken against a permanent employee without good cause. 'Good cause' is defined as any facts which, based on relevant circumstances, may be reasonably relied on by the appointing authority in the exercise of reasonable discretion as a basis for disciplinary action. 'Good cause' includes, but is not limited to:

"[¶ . . . ¶]

"b. Incompetency.

"c. Inefficiency."

"[¶ . . . ¶]"

Weekly Feedback Report for HHS Employees

Before October 2023, DHA and its employees utilized a database system called GalWIN⁷ for purposes of processing, managing, determining and recording an applicant's and recipient's claim for public assistance benefits and services. During that time, DHA inconsistently⁸ distributed a weekly feedback report to its

⁶ Official notice was taken of these MOU's during the factfinding proceeding presentation.

⁷ California Welfare Information Network.

⁸ One of the tenured HHS witnesses stated that she never received the weekly feedback report. The County admitted that it was inconsistent in its distribution of the weekly feedback report. Whether the report was distributed inconsistently or not at all

HHS employees located in the Medi-Cal/CalFresh and CalWORKs Service Centers. The weekly feedback report was meant to be distributed by the Supervisor to the HHS employees in that Supervisor's unit. The Supervisor was to discuss the contents of the weekly feedback report with the HHS in a one-on-one monthly meeting.⁹ The weekly feedback report was meant to be a point of reference for discussion as to how the HHS employee was currently performing and what actions (counseling and training) the Supervisor could take to improve the HHS employee's quantitative performance, if the employee's performance was deemed quantitatively insufficient.

The weekly feedback report displayed, in a spreadsheet/table format, the HHS employee's statistical weekly production¹⁰ as set forth in number of informational columns which reflected the HSS's production in handling inbound and outbound phone calls, whether the HSS missed a phone call, "tasks"¹¹ completed by the HSS in

is not at issue in this matter since the distribution was eventually paused in October 2023 and not proposed to be reinstated until June 2025.

⁹ In addition to the monthly one-on-one meetings between the HHS and the Supervisor, the Supervisor also annually rated the HHS employee's performance in their annual performance report.

¹⁰ The weekly feedback report also broke down the individual HHS's production by each day the HHS worked the week covered by the report.

¹¹ DHA utilized the term "task" to indicate a type and increment of work completed on behalf of a benefit applicant or recipient. The many types of work completed which constituted a "task" were varied and one type of task may take longer to complete than another type of task.

regular hours, “walk-in tasks”¹² completed by the HHS in regular hours, overtime tasks completed and total intake appointments assigned. One of the columns, however, was not an individual production statistic, but reflected the “Average Regular Tasks [Completed] by Unit per Day” which reflected the average production of all HHS employees within the departmental unit. The purpose of providing the average production of the department unit was to allow the Supervisor of the unit, who was the most familiar with the type of tasks completed by the nine HHS employees in the unit, to be able to differentiate the type of tasks completed by individual HHS employee who received the weekly feedback report and the tasks completed by the other eight HHS employees. Pertinent, however, to the statement of issue in this case were three columns: “Tasks Completed in Regular Hours,” “Walk-in Tasks Completed in Regular Hours,” and “Average Regular Tasks [Completed] by Unit per Day.”¹³

In October 2023, DHA paused the issuance of the weekly feedback report to HHS employees, while it migrated its data from the CalWIN program to the new 58 county-wide case and data management system called CalSAWS (California Statewide Automated Welfare System).

¹² A “walk-in task” was a task completed on behalf of an intake appointment of an applicant for benefits who walked into the office/service center to receive in-person assistance from the HHS.

¹³ The County explained that the number of tasks completed in the columns “Tasks Completed in Regular Hours” and “Walk-in Tasks Completed in Regular Hours” together represented the total number of tasks completed by that HHS employee. The “Average Regular Tasks [Completed] by Unit per Day” was an average of the total number of tasks completed by all nine of the HHS employees within the unit for that day. The average regular tasks completed by the unit was also recorded as a weekly total for the unit.

Proposed Change—Reinstatement of the Weekly Feedback Report

In June 2025, the County decided to reinstate the weekly feedback report with some additions. The revised weekly feedback report was to be expanded to include not only HSS employees, but also Office Assistants and Senior Office Assistants. Additionally, the County planned to include two additional HHS informational columns.¹⁴ The three “task”-related columns remained present in the report: “Tasks Completed in Regular Hours,” “Walk-in Tasks Completed in Regular Hours,” and “Average Regular Tasks Completed by Unit.”

The County and UPE met over the proposed reinstatement of the weekly feedback report on June 13, September 8 and 18, and December 5, 2025. The parties did not exchange formal proposals and counterproposals as in traditional successor bargaining agreement negotiations but rather verbally discussed the County’s proposed reinstatement of the weekly feedback report. UPE stated that they would agree with the County’s reinstatement of the proposed weekly feedback report if it removed the informational column in the report, “Average Regular Tasks Completed by Unit.” UPE believed that this column would eventually become a performance standard which UPE did not agree with. The County rejected UPE’s verbal offer. On

¹⁴ These columns were “EDBC (Eligibility Determination Benefit Calculation) Run Count” (the number of times the HHS used the internal CalSAWS calculator to determine eligibility) and “Case Count.” Although UPE disputed the practicality of the Supervisor’s use of this information in evaluating an HSS employee, UPE did not object to providing the HHS employee with this information in a weekly feedback report. Therefore, the information in these columns need not be discussed further in this factfinding report.

December 5, 2025, UPE declared that the parties were at impasse over this meet and confer subject.

At the factfinding proceeding, the County reiterated its intent to reinstate the weekly feedback report with the average task production by unit information in order that the HSS may know their performance compared to the unit's average production. In addition, the Supervisor could work with the HSS to find ways to improve their production.

UPE again stated at the factfinding proceeding that it did not object to the weekly report without the "Average Regular Tasks Completed by Unit" column and explained that it did not oppose the Supervisor sharing the information with an HSS, if the HSS employee requested the information from the Supervisor at the one-on-one monthly meeting.¹⁵ UPE believed that the introduction of the "Average Regular Tasks Completed by Unit" column was a "backdoor" attempt of the County to introduce a quantitative performance standard when no quantitative performance standard had ever existed for HSS employees.

UPE further contended that to introduce the "Average Regular Tasks Completed by Unit" column was to provide a Supervisor with an opportunity to harass a HSS employee regarding one's production rather than constructively coach them. The County assured UPE that its intent to introduce the "Average Regular Tasks Completed by Unit" column was for training and coaching purposes.

¹⁵ UPE also did not object to the County showing the HSS employee one's own ongoing average of production over time.

UPE also stated that it understood that the County maintained the contractual right to discipline represented employees pursuant to MOU Articles 18.5 of the Office and Technical unit and 19.5 of the Welfare Non-Supervisory Unit, relating to reasons of the “inefficiency” (and “incompetency”), but argued that the “tasks” which comprised the weekly total of tasks were too different in type and took different amounts of time to complete for the purpose of comparing one HSS employee’s performance with the weekly average of the unit of nine HSS employees.

UPE was asked by the Chair whether the average of the total of tasks of HSS employees within a unit over a greater period of time (such as a month, quarter, or year) would eliminate their objection regarding comparing one HSS employee with the average unit completed task production. UPE replied that the tasks were too different in type to compare over any period of time to provide any consistency of productivity measurement.

APPLICATION OF STATUTORY CRITERIA AND RECOMMENDATIONS

Unlike interest arbitration, where a third-party neutral sets the terms of a new agreement, a third-party neutral in an MMBA factfinding report simply provides recommendation(s) as to terms for settlement, which shall be advisory only. (Gov. Code, § 3505.5, subd. (a).) In essence, the impasse resolution procedure, which includes the factfinding process, is a continuation of the collective bargaining process. (*San Bernardino County Superintendent of Schools (2024)* PERB Decision No. 2934, p. 16.) Ultimately, the parties must persuade one another of their positions, and the neutral factfinder simply provides an outside perspective to assist the parties possibly to come to an agreement over matters within the scope of representation.

(*City of Oakland* (2018) PERB Order No. Ad-462-M, p. 4; *County of Ventura* (2018) PERB Order No. Ad-461-M, p. 5.) Both parties to the factfinding process are statutorily obligated to participate in this process in good faith. (*San Bernardino County Superintendent of Schools, supra*, p. 16; *County of Santa Clara* (2020) PERB Order No. Ad-483-M, pp. 5-6.)

Government Code section 3505.4, subdivision (d) states that factfinders shall “consider, weigh, and be guided by” those criteria set forth in subdivisions (d)(1) through (8). One of those criteria is Government Code section 3505.4, subdivision (d)(4)—“[t]he interests and welfare of the public.” DHA administers public assistance benefits to eligible applicants of the public who qualify for such assistance. It is in the interest and the welfare of the public that DHA has its HHS, Senior Office Assistants and Office Assistants perform efficiently in the timely processing of requests for assistance to those in the public who are in the greatest of need—whether determining the eligibility of an applicant for such benefits or troubleshooting a problem of an existing recipient of benefits.

The County intends to improve its HSS’s production by means of comparing one HSS employee’s task production with the average of the unit’s task production over a weekly period and for the Supervisor to use this report at the one-on-one meetings to find ways to improve the HHS’s quantitative performance. In other words, the County is utilizing the weekly feedback report to attempt to correct issues of “incompetency” or “inefficiency.”

In arbitrations, establishing “incompetency” can be based upon a continuous pattern of activity or inactivity.¹⁶ In State Civil Service appellate court precedent, “inefficiency” generally connotes a continuous failure by an employee to meet a level of productivity set by other employees in the same or similar position. (*Bodenschatz v. State Personnel Board* (1971) 15 Cal.App.3d 775, where inefficiency was found when comparing statistical data of the employee's productivity with other California Highway Patrol officers performing like duties.)

As incompetency or inefficiency can be defined as a “continuous” failure rather than an isolated or periodic failure of production, the use of a one-week period to determine inefficiency when compared with the average of the unit seems an insufficient sampling period, even for purposes of a corrective or coaching discussion. A period of time greater than one week is needed to demonstrate incompetency or inefficiency. Thus, UPE has a valid point as to the irrelevance of the use of a one-week production comparative for its HHS employees and the average of the unit's task production. In the Chair's mind, a larger sampling period greater than one week should be used as a comparative to establish the relevancy of the comparison.

Recommendation(s) for Settlement: Pursuant to Government Code section 3505.4, subdivision (d)(4) as to the “interests and welfare of the public,” the Chair recommends that the County reinstate the weekly feedback report without the “Average Regular Tasks Completed by Unit” column on a weekly basis. However, the “Tasks Completed in Regular Hours,” “Walk-in Tasks Completed by Unit,” and the

¹⁶ Norman Brand & Melissa Biren, *Discipline & Discharge in Arbitration*, Third Edition (2015) at pp. 4-11 and 4-13.

“Average Regular Tasks Completed by Unit” columns should be together provided to the represented employees on a monthly, bimonthly, quarterly, or semiannual basis with the weekly feedback report—with whichever quantitative time measurement (monthly, bimonthly, quarterly or semiannual) that UPE and the County agree provides a more accurate and appropriate sampling of task production to provide comparative notice to the UPE-represented employees quantitative production when compared to the unit’s average quantitative production. The reinstatement of the weekly feedback report should also be preceded by a memorandum from the County to UPE-represented employees and UPE which explains the County’s purpose in reinstating these weekly feedback reports.

CONCLUSION

The Chair is sincerely hopeful that these recommendation(s) will assist the parties in their negotiations going forward and which eventually will result in the parties coming to a resolution of this matter.



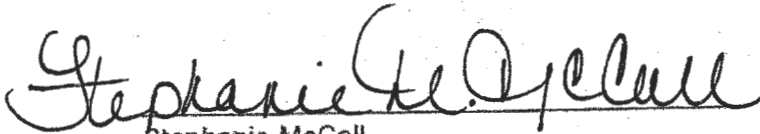
Shawn P. Cloughesy
Chair



Jennifer Saetern
Panel Member for Public Agency

☒
☐

Concur (attached)
Dissent (attached)



Stephanie McCall
Panel Member for Exclusive Representative

☒
☐

Concur (attached)
Dissent (attached)

PERB Case No. SA-IM-258-M

Factfinding Report and Recommendation

February 5, 2026

I, Jennifer Saetern, representative for the Sacramento County Department of Human Assistance and panel member of this factfinding proceeding, concur with the findings and conclusion. However, I would like to offer clarification on one specific area.

The purpose of the weekly feedback reports is to provide staff with consistent, ongoing input regarding their performance. It is not the department's intention to rely solely on these reports—nor on a single week of data—when evaluating matters that may lead to disciplinary action. Patterns of inactivity or inconsistencies are reviewed over a broader period to ensure a fair and accurate assessment. Additionally, while feedback reports serve as one metric in evaluating employee performance, they are not the only factor considered. Supervisors and QA/QC staff also conduct monthly call reviews and case reviews, which contribute to a more comprehensive evaluation.

I also concur with the recommendation to provide the "Tasks Completed in Regular Hours," "Walk-In Tasks Completed by Unit," and "Average Regular Tasks Completed by Unit" on a monthly basis in conjunction with the weekly feedback reports.

Concurrence Statement of Union Panel Member

PERB Case No. SA-IM-258-M

Factfinding Report and Recommendation

February 4, 2026

I, Stephanie McCall, representative of United Public Employees (UPE) and panel member of this fact-finding procedure, concur with the Chair's recommendation.

Specifically, UPE agrees to recommend that the County provide the additional quantitative production metrics—"Tasks Completed in Regular Hours," "Walk-in Tasks Completed by Unit," and "Average Regular Tasks Completed by Unit"—on a quarterly basis.

Quarterly reporting offers a more stable and representative sampling of workload trends, reduces the volatility inherent in weekly fluctuations, and provides employees with meaningful comparative information without creating unnecessary administrative burden. This interval also aligns with the union's longstanding position that production data should be contextualized, accurate, and not used in a manner that misrepresents employee performance.

UPE also concurs with the recommendation that the County issue a memorandum to all UPE-represented employees explaining the purpose of reinstating the weekly feedback reports on a quarterly basis. Transparency regarding the intent and use of these reports is essential to maintaining trust and ensuring that employees understand how the information will—and will not—be used.

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Yolo, 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 Cloughesy Arbitration Services, P.O. Box 301, Davis, 95616.

On February 5, 2026, I served the Factfinding Report and Recommendations for Settlement and Panel Representatives' Responses in County of Sacramento and United Public Employees, PERB Case No. SA-IM-258-M dated February 5, 2026 on the parties listed below by

X Electronic service (e-mail).

PUBLIC EMPLOYMENT RELATIONS BOARD

Public Employment Relations Board
Email: factfinding@perb.ca.gov

FACTFINDING PANEL REPRESENTATIVES

Stephanie McCall
United Public Employees
Exclusive Representative Panel Member
Email: mccalls@saccounty.gov

Jennifer Saetern
Division Manager
Department of Human Assistance
County of Sacramento
Public Agency Panel Member
Email: saeternjenn@saccounty.gov

PARTY REPRESENTATIVES

John Bonilla, Business Agent
United Public Employees
Representative for Exclusive Representative
Email: bonilla@upe1.org;

Jerry Camous
Labor Relations Officer
County of Sacramento
Representative for Public Agency
Email: camousg@saccounty.org;

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 5, 2026, at Davis, California.

Shawn P. Cloughesy

(Type or print name)



(Signature)