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November 24, 2025

VIA EMAIL

Mary Weiss, Senior Regional Attorney
425 W. Broadway, Suite 400
Glendale, CA 91204-1269
Mary.weiss@perb.ca.gov

Re: *American Federation of State, County & Municipal Employment Local 315 v. Northern Inyo Healthcare District*
Unfair Practice Charge No. SA-CE-1318-M

Dear Ms. Weiss:

This office represents Respondent Northern Inyo Healthcare District (“District”) in the above-referenced Unfair Practice Charge (“Charge”) filed by the American Federation of State, County & Municipal Employment Local 315 (“AFSCME” or the “Union”) on October 23, 2025. The District hereby files its Position Statement in response to the Charge and respectfully requests that it be dismissed in its entirety without leave to amend.

I. INTRODUCTION

AFSCME’s Charge misconstrues concerns about management support with staffing practices. The Parties expressly agreed that the District retained the managerial prerogative to make staffing decisions based on fluctuating patient acuity and statutory minimum staffing requirements. (See Exhibit A to Charge, pp. 1 [Article 2 of 2022-2025 MOU], p. 51 [Article 45].) These MOU provisions legally operated to function as a waiver of the District’s right to bargain over staffing decision. At all times during the events raised in the Charge, the parties remained governed by this MOU.¹ Accordingly, the District routinely exercised managerial discretion and modified staffing levels per the discretion granted by the parties’ active MOU. Despite this clear waiver (as well as consistent past practice enforcing this discretion), represented employees expressed pre-emptive and precautionary concerns that management would not exercise good judgment in staffing shifts under various urgent scenarios. Conflating concerns about management

¹ As noted below, the 2022-2025 MOU expired on October 31, 2025. The Charge’s factual allegations plainly concern events that occurred before October 31, 2025, thus while the MOU remained in effect. (See Attachment to Charge, pp. 1-2; Exh. A to Charge, p. 1 [term of agreement].)

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 2

support with staffing practices, employees requested that the District staff two Registered Nurses (“RN(s)”) at all times.

AFSCME now frames the District’s minor changes to Staffing Guidelines, as a unilateral change in policy. This allegation not only ignores clear contract language as years of consistent past practice, but reflects a misunderstanding of the significance of the Staffing Guidelines. This internal management tool served to assist House Supervisors when they prepared staff shift assignments. The District did not distribute the Staffing Guidelines to employees. House Supervisors deviated from such suggestions, as needed based on patient acuity and needs. Accordingly, AFSCME’s Charge suffers from several fatal flaws. The Union failed to establish a change in policy to support a *prima facie* unfair practice claim. Moreover, AFSCME contractually waived its right bargain staffing decisions; as the challenged conduct undertaken by the District occurred while the MOU remained in effect, this waiver remained in effect and precludes the Union’s ability to raise this claim. Accordingly, the Union’s Charge should be dismissed.

II. FACTUAL BACKGROUND

A. Article 45 of 2022-2025 MOU Authorizes the District to Make Staffing Decisions

AFSCME has been recognized as the exclusive representative for employees in the Registered Nurse classification. (Exhibit A to Charge, p. 1 [Article 2 of 2022-2025 MOU].) The parties were governed by a Memorandum of Understanding (“MOU”), which expired on October 31, 2025. Article 45 of the MOU governed “Staffing,” with Section A providing as follows:

“The District will have a staffing system based on assessment of patient needs in accordance with Title 22 of the California Administrative Code and any other applicable State and/or Federal regulations regarding patient classification by acuity and minimum staffing ratios. The District will include meals and breaks when assessing and determining staffing needs.” (Exh. A to Charge, p. 51.)

California regulations require “medical/surgical care units”² to maintain a licensed nurse-to-patient ratio of “1:5 or fewer at all times,” or a “1:4 fewer” ratio for units with telemetry³ patients. (See Cal. Code Regs., Tit. 22, § 70217).

² A “medical/surgical unit is a unit with beds classified as medical/surgical in which patients, who require less care than that which is available in intensive care units, step-down units, or specialty care units receive 24 hour inpatient general medical services, post-surgical services, or both general medical and post-surgical services.” (Cal. Code Regs., Tit. 22, § 70217.)

³ “Telemetry unit” is defined as a unit organized, operated, and maintained to provide care for and continuous cardiac monitoring of patients in a stable condition, having or suspected of having a cardiac condition or a disease

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 3

B. Past Practices Establish That the District Routinely Modified Staffing Levels

The District operates a Medical/Surgical (“Med-Surg”) Unit for post-operative care patients. Patients who visit the Med-Surg unit are either medical, post-operative, and occasionally, pediatric patients. (Declaration of Allison Partridge (“Partridge Decl.”), ¶ 2). Med-Surg Unit shifts for RNs and CNAs run from 7:00 a.m. – 7:30 p.m. and 11:00 a.m. – 11:30 p.m. Med-Surg Unit shifts for Clerks run from 6:00 a.m. to 4:30 p.m. and 4:00 p.m. to 2:30 a.m. (Exh. B to Charge [Master Staffing Guidelines, revised March 2023].)

Managers are primarily responsible for scheduling work shifts. For the Med-Surg unit, Michael Montano is responsible for creating shifts and commonly schedules at least 2 – 3 RNs and at least 1-2 Certified Nursing Assistants (“CNA(s)”) per shift. (Nott Decl., ¶ 4). Depending on patient census and patient acuity, House Supervisors determine how many of those employees to call-in. (*Id.*) On several occasions in 2025, House Supervisors have modified staff that are called-in based on feedback from Med-Surg Unit employees. (Nott Decl., ¶ 4.)

The District’s staffing practices for the Med-Surg Unit comply with minimum staffing ratios set by California regulatory law. (Nott Decl., ¶ 5.) On several occasions, House Supervisors have called-in additional RNs and CNAs above the legally required minimum staffing ratios. (Nott Decl., ¶ 6.) For example, House Supervisors have called-in two RNs for three high-acuity patients in the Med-Surg Unit. (Nott Decl., ¶ 6.) Occasionally, House Supervisors call-in two RNs for four low-acuity patients in the Med-Surg Unit. (Nott Decl., ¶ 6.) Additionally, House Supervisors have called-in two or more RNs for a patient census of five or more per shift. (Nott Decl., ¶ 6.)

C. The District’s Staffing Guidelines Are Non-Binding and Distinct from Work Schedules

Director of Nursing Inpatient Services, Justin Nott is responsible for revising the District’s “Master Staffing Guidelines” (“Staffing Guidelines”). (Nott Decl., ¶ 7.) Nott has revised the Staffing Guidelines based on feedback he received from RNs about staffing and patient census trends. (Nott Decl., ¶ 7.) Since 2015, the Staffing Guidelines have been revised at least six times. (Nott Decl., ¶ 7.) The Staffing Guidelines are non-binding and intended to guide House Supervisors when making staffing decisions. (Nott Decl., ¶ 7.) The Staffing Guidelines are not a policy. (Nott Decl., ¶ 7.) In fact, House Supervisors deviate from the Staffing Guidelines as needed based on patient acuity and needs. (Nott Decl., ¶ 7.) The Staffing Guidelines are distinct from actual work schedules used to deploy RNs and CNAs each work shift. The Staffing Guidelines are typically posted in the House Supervisors’ Office, which is located on a separate floor from the Med-Surg Unit. (Nott Decl., ¶ 7.)

requiring the electronic monitoring, recording, retrieval, and display of cardiac electrical signals. (Cal. Code Regs., Tit. 22, § 70217.)

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 4

D. The District Revised its Staffing Guidelines in September 2025 to Address Employees' Management Concerns

Sometime in early 2025, RNs raised concerns with management and specifically requested that the District staff two RNs at all times, regardless of patient census. (Nott Decl., ¶ 8.) RNs had concerns that during single-RN staffed shifts of three patients or less, management would not summon appropriate staffing support during emergency situations like Code Blue. (Nott Decl., ¶ 8.) To address these concerns, Nott and Montano held a meeting with RNs to remind them of their resources. (Nott Decl., ¶ 8.) Nott and Montano reminded RNs to escalate concerns to them or their House Supervisors. (Nott Decl., ¶ 8.) As licensed nurses, Nott and Montano were also capable of covering any RN-related tasks.

In or about August 2025, CNO Partridge attended a bargaining session with the Union to discuss various issues, including staffing. (Partridge Decl., ¶ 5.) During that session, Union representatives proposed revising Article 45 of the MOU to incorporate a requirement to staff two RNs at all times for the Med-Surg Unit, regardless of patient census. (Partridge Decl., ¶ 5.) Partridge reminded Union representatives that the District always adheres to Title 22 minimum staffing requirements, while also staffing shifts based on patient acuity and needs. (Partridge Decl., ¶ 5.) Further, Partridge informed the Union that it was not always necessary to staff two RNs when the Med-Surg Unit had four patients or less. (Partridge Decl., ¶ 5.)

Following this bargaining session, Partridge suggested that Nott revise the Staffing Guidelines to clarify the District's long-standing staffing practice and policy -- that House Supervisors must always consider patient acuity. (Partridge Decl., ¶ 6.) Partridge also informed Nott to make other revisions as needed to address the Union's staffing concerns. (Partridge Decl., ¶ 6.)

Accordingly, in or around September 2025, Nott revised the Staffing Guidelines to specify that "Patient acuity is taken into account with all staffing decisions." (Nott Decl., ¶ 9; Exhibit 1.) Additionally, he revised the RN and CNA staffing suggestions as follows:

- For 4 patients: Nott revised the suggested RN staffing from "1" to "1-2."
- For 3 patients, Nott revised the suggested CNA staffing from "0" to "1."
- For 2 patients, Nott revised the suggested CNA staffing from "0" to "0-1." (Nott Decl., ¶ 9; Exh. 1, p. 2.)

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Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 5

III. ARGUMENT

In its Charge, AFSCME alleges that the District violated the MMBA's duty to bargain in good faith under "unilateral change" and "failure to produce information" *per se* theories of liability. Each ground is examined separately below.

A. **AFSCME Cannot Establish a Change in Policy to Support a Prima Facie Case of Unilateral Change**

To state a *prima facie* case for an unlawful unilateral change, AFSCME must establish that: (1) the District breached or altered the party's written agreement or own established past practice; (2) the change in policy concerns a matter within the scope of representation; (3) the action was taken without giving the exclusive representative notice or opportunity to bargain over the change; and (4) the action had a generalized effect or continuing impact on terms and conditions of employment. (See e.g. *Fairfield Suisun Unified School District* (2012) PERB Dec. No. 2262; *County of Santa Clara* (2013) PERB Dec. No. 2321-M; *Antelope Valley Union High School District* (2000) PERB Dec. No. 1402.)

To establish the first element of its *prima facie* case, AFSCME must establish any of the following: (1) deviation from the status quo set forth in a written agreement or written policy; (2) a change in established past practice; and (3) a newly created policy or application or enforcement of existing policy in a new way. (*Pasadena Area Community College District* (2015) PERB Dec. No. 2444, p. 12, fn. 6.) AFSCME cannot demonstrate that the District made a change in any of these three ways.

1. ***No Breach of the Parties' Written Agreement***

First, the Union cannot show that the District violated the express provisions of the MOU. Where contractual language is clear and unambiguous, there is no need to go beyond the plain language of the contract to ascertain its meaning. (*City of Riverside* (2009) PERB Dec. No. 2027-M; *Marysville Joint Unified School District* (1983) PERB Dec. No. 314.)

Here, the Parties' MOU is clear and unambiguous. It explicitly provides the District with the authority to make staffing decisions based on statutory requirements. Article 45 of the operative MOU states:

District will have a staffing system based on assessment of patient needs in accordance with Title 22 of the California Administrative Code and any other applicable State and/or Federal regulations regarding patient classification by acuity and minimum staffing ratios." (Exh. A).

By this language, the MOU requires the District to create a staffing system that accounts for two things: (1) patient acuity, and (2) minimum statutory ratios according to State and/or Federal laws. The District complied with the written agreement by administering a staffing system

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 6

that accounts for regulatory minimum staffing ratios as well as patient acuity. District management met daily to discuss staffing and patient concerns, and swiftly revised staffing levels as needed. Staffing levels never compromised patient care or caused concern among management. (Nott and Montano Decls.)

The Charge reads an unwritten term into this MOU language. AFSCME's allegations plainly conflate changes made to the *Staffing Guidelines* with the "staffing system" noted in the parties' agreement. As reflected above, Article 45 does not refer to these separate guidelines. Without more, the Union cannot demonstrate that the District breached the parties' MOU by revising these Staffing Guidelines.

Moreover, the Union cannot frame these Staffing Guidelines as a side agreement between the Parties, providing a separate viable ground to allege that a policy was unilaterally changed by the District. Rather, the Staffing Guidelines were intended for House Supervisors only as guidance for staffing shifts. In fact, the District routinely drafted and revised such Staffing Guidelines – without Union input – as early as 2015. (Nott Decl. ¶ 7.) Moreover, these Staffing Guidelines were only intended to be stored in the House Supervisors' office and were posted inadvertently in the Nurses Station. Accordingly, the Union cannot rely on any changes to the Staffing Guidelines as a contractual "breach" in support of the first element of its *prima facie* case.

2. District's Actions Aligned with Longstanding Past Practice.

Second, the Union cannot show that the District violated a binding past practice by making changes to the Staffing Guidelines. For a past practice to be binding and subject to a unilateral change analysis, it must be unequivocal, clearly enunciated and acted upon, and readily ascertainable over a reasonable period of time as a fixed and established practice accepted by both parties. (*County of Placer* (2004) PERB Dec. No. 1630-M; *Riverside Sheriffs' Association v. County of Riverside* (2003) 106 Cal.App.4th 1285, 1291.) It has been well settled for decades before PERB that a past practice is enforceable insofar as it is "'regular and consistent' or 'historic and accepted.'" (*Hacienda La Puente Unified School District* (1997) PERB Dec. No. 1186.)

Here, AFSCME's case inverts the status of the parties' history and practice of staffing shifts for RNs (and CNAs). Upon examination of the District's staffing practices, it remains plain that management complied with an enforceable and binding past practice. Specifically, the District considers various factors (including but by no means limited to the Staffing Guidelines) to set shift schedules and staff the Med-Surge Unit (among others). This staffing practice has been in effect for over a decade, spanning multiple contracts.⁴ To staff shifts, District management first ensures they meet Title 22 compliance requirements, as required by state law and the MOU. House Supervisors and Managers also consider patient acuity levels to determine whether to call-in additional RNs or CNAs. Finally, House Supervisors regularly exercise discretion to staff as many

⁴ As noted below, this practice reinforces the existence of a contractual waiver of the union's right to negotiate as to staffing decisions.

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 7

RNs as are needed to safely service patients, without falling out of compliance with Title 22's minimum staffing ratios. This practice plainly reflects that the District has consistently exercised broad autonomy and flexibility in setting staff schedules, based on shifting circumstances (patient acuity chief among them) and perceived over a long period of time.

In fact, staff members had the daily opportunity to raise concerns about staffing or patient acuity levels. House Supervisors took these daily concerns into consideration, and adjusted staffing levels accordingly. The Staffing Guidelines served only as guidance for inexperienced House Supervisors, or to resolve any doubts regarding staffing. House Supervisors were not bound to the Staffing Guidelines staffing levels. As such, the District maintained an unequivocal pattern that was clearly acted upon, for several years.

3. District Did Not Adopt or Enforce a New Staffing Policy.

Finally, AFSCME cannot rely on the third type of "change" recognized by the Board, that is, the creation of a new policy or enforcement of a pre-existing policy in a new way. (See e.g. *County of Monterey* (2018) PERB Dec. No. 2579-M, pp. 10-11.) Such a change may be found if an employer enforces a prior policy in a more stringent fashion. (*County of Monterey, supra*, Dec. No. 2579 at pp. 16-17.) However, an employer cannot be said to have created a new policy on a subject if the union has clearly waived its right to bargain on that subject. (*Ibid*, at p. 15.) Here, the Union has not shown a "change" to staffing decisions. As noted throughout this response, the Charge remains curiously silent on clear changes being made to work schedule shifts, instead focusing on minor revisions to "guidelines" used by management to make staffing decisions. Moreover, those changes to this staffing tool do not reflect a more stringent approach to workload issues. If anything, the District's changes adopted a more lenient approach to staffing shifts for RNs and CNAs, by providing more support given feedback provided by select staff. Instead, the District simply updated its guidelines tool for staffing decisions to provide more lenient guidance, and exercised the same discretion (or put differently, followed the same past practice) in making staffing decisions. This contrasts starkly with those cases in which the Board found a "change" had been made by adopting more stringent terms as to existing policy. (See *County of Monterey, supra*, Dec. No. 2579 at pp. 15-17.)

B. AFSCME's Charge Ignores Impact of Active MOU at Time of Revisions to Staffing Guidelines

As noted above, the Charge fails to state a viable unilateral change claim, as AFSCME has not shown that the District committed a "change" under any of the three avenues recognized by the Board. This threshold pleading deficiency requires dismissal of the Charge.

Before turning to the District's alternative argument requiring dismissal of this case, we turn to a recurring issue in the Charge reflecting that the Union misunderstands several key factual and legal issues in this case. It remains undisputed that while the parties engaged in successor MOU negotiations, the prior MOU remained in effect through October 31, 2025. It similarly

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 8

remains starkly clear that the Union has alleged that the District violated the duty to meet and confer by making a unilateral change in September 2025. Thus, it remains undisputed that during the events challenged by the Union through its Charge, a labor contract remained in effect.

Despite these indisputable facts drawn from the documentary evidence and pled allegations in the Charge, the Union nonetheless characterizes this case as occurring post-contract, such that the District was compelled to follow status quo terms, negotiate a successor contract, or impose terms after exhausting post-impasse procedures. This view misunderstands both clear facts drawn from their very evidence, and the clear legal import of the parties' contract during the events at issue here. On the first point, the Charge suggests that while the parties negotiated, they were governed by "status quo" terms, particularly the staffing ratios set in the prior Staffing Guidelines. (Attachment to Charge, pp. 1-2.) Status quo terms are conceptually distinct from MOU-rooted provisions, as the former involves the baseline conditions of employment which endure after an MOU has expired until the parties execute a new MOU. While an employer has obligations to refrain from unilateral changes as to unwritten status quo terms prior to mutual agreement, this doctrine is wholly inapplicable while the parties are governed by an active MOU.

By framing the Staffing Guidelines as one of several status quo terms during MOU negotiations, AFSCME grounds its case on a misleading view of the facts – and an irrelevant legal doctrine. In evaluating whether the Union has stated a viable claim through the Charge, the Board agent must weigh the legal significance of the factual allegations – but should decline to consider those allegations in a post-contract context.

C. AFSCME Waived its Right to Bargain

As noted above, the Charge must be dismissed as the Union has failed to state a complete, viable *prima facie* case. Alternatively, the Board agent must dismiss the Charge given that the Union waived its right to negotiate as to staffing decisions. An employer may lawfully take unilateral action on a matter within the scope of representation if it can establish as an affirmative defense that an MOU clearly and unambiguously shows the Union waived its right to negotiate over changes to an employment term. (See e.g. *City of Culver City* (2020) PERB Dec. No. 2731-M, pp. 14-20; *Moreno Valley Unified School District* (1995) PERB Dec. No. 1106, adopting prop. dec. at p. 9; *Marysville Joint Unified School District*, *supra*, Dec. No. 314 at p. 2.) "[N]ot only must waiver be clearly established, but any doubts must be resolved against the party asserting waiver." (*Placentia Unified School District* (1986) PERB Dec. No. 595, p. 8.) If a Respondent can establish an affirmative defense as a matter of law, based on undisputed facts, "the charge must be dismissed even when the charging party has otherwise established a *prima facie* case." (*Ibid.*, citing *Long Beach Community College District* (2003) PERB Dec. No. 1568.)

The Board has found waiver under two alternative theories, contractual waiver and waiver through inaction (i.e. a form of equitable estoppel). Each theory is explored below.

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Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 9

1. Contractual Waiver

To find contractual waiver of the right to negotiate over a particular subject, the provision in question must be “clear and unmistakable” and must indicate an intentional relinquishment of the right to bargain. (See e.g. *County of Santa Clara, supra*, Dec. No. 2321-M; *Amador Valley Joint Union High School District* (1978) PERB Dec. No. 74; *California State Employees’ Assn. v. Public Employment Relations Bd.* (1996) 51 Cal.App.4th 923, 937-938.) Thus, “a contract provision which cedes to the employer unilateral control over a particular, clearly identified matter will operate as a waiver of the exclusive representative’s bargaining right as to that matter.” (*Grossmont Union High School District* (1983) PERB Dec. No. 313.) A past practice, even one of long duration, does not trump a clear, established policy. (*Marysville Joint Unified School District, supra*, PERB Dec. No. 314.)

To assess contractual waiver, the Board scrutinizes the terms of the MOU on which the employer relies. Here, the terms are clear and unambiguous. Article 45 provides that the “District will have a staffing system.” (Exh. A to Charge p. 51.) By specifically identifying the “District” as “hav[ing] a staffing system,” the MOU specifically empowers the District and not the Union to devise its own staffing system based on several factors. Further, the MOU requires the District to create such system based on its own “assessment” of several factors. (*Id.*) “Assessment,” by definition, means “the action or an instance of making a judgment about something.” (Merriam-Webster’s Dictionary.⁵) Thus, the MOU enables the District to make its own “judgment” – in other words, exercise discretion – based on several factors. Those factors include “patient needs in accordance with Title 22 of the California Administrative Code and any other State and/or Federal regulations regarding patient classification by acuity and minimum staffing ratios.”

In other words, the District must consider “patient needs” when exercising its discretion to make staffing decisions. “Needs” include essential, required, or important services for the patient. (Merriam-Webster’s Dictionary.⁶) Next, the MOU requires the District to follow statutory requirements regarding “acuity and minimum staffing ratios.” (Exh. A to Charge, p. 51.) Here, the California regulations require Med-Surg units to maintain a minimum staffing ratio of “1:5 or fewer at all times,” and “1:4 or fewer at all times” for telemetry units. Thus, the District must not staff less than one RN for every five patients, or four telemetry patients. Notably, the California regulations do not require specific amounts of ancillary staff, like CNAs and clerks. Nor does the Code require a minimum range of staff.

With the District’s decision-making authority on staffing set in subsection A of Article 45, subsection B specifies that “[w]hen an RN has concerns related to staffing, the concerns should be brought immediately to the attention of the House Supervisor.” (Exh. A to Charge, p. 51.) In other words, the MOU enables RNs to raise staffing concerns once those decisions have already been

⁵ Available online at <https://www.merriam-webster.com/dictionary/assessment>, last accessed on November 24, 2025.

⁶ Available online at <https://www.merriam-webster.com/dictionary/need>, last accessed on November 24, 2025.

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 10

made. Moreover, “related to” could encompass several concerns connected to staffing. (*Id.*).

These terms in totality are clear and unambiguous. They are not susceptible to multiple, differing interpretations or meanings. Further, this right is specific and tailored to discrete actions, unlike the broadly worded management rights clauses found by the Board not to support a defense of waiver. (Compare *County of Kern* (2009) PERB Dec. No. 1910-M, pp. 9-11 [finding waiver based on clear terms of MOU], *Murdoc County Office of Education* (2019) PERB Dec. No. 2684, pp. 13-14 [rejecting waiver defense based on clear terms of MOU]; *San Bernardino Community College District* (2018) PERB Dec. No. 2599, pp. 12-14 [finding no waiver based on broad management rights clause].)

In sum, the District’s “staffing system” consistently incorporated minimum staffing ratios and patient needs and acuity. Because such patient “needs” and “acuity” undoubtedly fluctuate, the contract itself plainly provides the District with broad discretion to schedule beyond minimum staffing ratios, as needed. Such staffing decisions could include scheduling additional RNs or ancillary staff like CNAs or clerks.

2. Waiver by Inaction

To prove waiver by inaction, it is necessary to prove “conscious abandonment” of the right to bargain. (*City of Culver City, supra*, PERB Dec. No. 2731 at p. 18.) Showing that a union consciously abandoned its right to bargain typically involves proof that “the union had clear notice, meaning advance knowledge, of the employer’s intent to change policy with sufficient time to allow a reasonable opportunity to bargain about the change and then failed to request negotiations.” (*Id.*, adopting proposed decision at pp. 25-26 [internal quotation marks omitted].)

Here, AFSCME had actual knowledge that the District routinely modified staffing levels based on patient needs – irrespective of the Staffing Guidelines. In fact, the District has maintained the same staffing practices since approximately 2009. Specifically, management met with employees daily to discuss any staffing concerns or patient issues. House Supervisors routinely adjusted staffing levels based on these concerns to ensure safe patient care. By virtue of these meetings, Staff members knew they could voice their concerns and have them addressed. Yet, at no point did the Union request bargaining. Accordingly, they have waived their right to bargain by inaction.

D. The District Promptly Responded to AFSCME’s Request for Information

Finally, AFSCME alleges that the District committed a separate violation of the duty to bargain in good faith, by refusing to produce the “updated” Staffing Guidelines (Attachment to Charge, pp. 4-5.) This claim raises another *per se* theory of liability, namely, the failure to produce relevant information. It is well settled that an employer violates the duty to bargain in good faith unless it can supply adequate reasons why it cannot provide the information. (See e.g. *Town of Paradise* (2007) PERB Dec. No. 1906-M; *State of California (Departments of Personnel*

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 11

Administration and Transportation) (1997) PERB Dec. No. 1227-S; *County of Sierra* (2007) PERB Dec. No. 1915-M.)

The District promptly responded to the Union's October 14 information request on October 24, 2025, that is, 10 calendar days later. (See Exhibit 1.) Both PERB and the NLRB have found that an employer satisfied its obligation to respond to an RFI in a timely manner by responding within 10 to 15 days. (See e.g. *Regents of the University of California* (1999) PERB Dec. No. 1314-H, adopting dismissal letter, p. 4, citing *Partee Flooring Mill* (1954) 107 NLRB 1177.) The Charge does not acknowledge this fact, in large part as the Union chose to file the Charge a mere nine days after issuing the request. This duration of time is not sufficient to show an unreasonable delay, and thus violation of the duty to bargain. Accordingly, this claim is meritless and should be dismissed.

IV. CONCLUSION

For the reasons stated above, the Union has not and cannot state a *prima facie* violation of the duty to bargain in good faith. Therefore, the District respectfully requests that the Charge be dismissed in its entirety without leave to amend.

Regards,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

A handwritten signature in black ink, appearing to read "Eric T. Riss", with a stylized flourish at the end.

Eric T. Riss

Mary Weiss, Senior Regional Attorney
November 24, 2025
Page 12

DECLARATION

I am an attorney and represent Respondent Northern Inyo Healthcare District (“Respondent”) regarding Unfair Practice Charge No. SA-CE-1318-M filed by the American Federation of State, County & Municipal Employees Local 315 on October 23, 2025. I declare under penalty of perjury that I have read the foregoing Respondent’s Position Statement and that the statements therein are true and complete to the best of my knowledge and belief.

Executed on November 24, 2025, at La Jolla, California.

By: 
Eric T. Riss

DECLARATION OF ALLISON PARTRIDGE

DECLARATION OF ALLISON PARTRIDGE

I, Allison Partridge, declare as follows:

1. I began working for Respondent Northern Inyo Healthcare District (“District”) in 2018 as Director of Nursing for Emergency and Inpatient Services. In or around October 2020, I promoted into my current position as Chief Nursing Officer. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would competently testify to the facts and matters contained herein.
2. In my current role as Chief Nursing Officer, I oversee and support several of the District’s clinical areas, including nursing. Director of Nursing Inpatient Services, Justin Nott (“Nott”) and Director of Nursing Outpatient Services, Jenny Bates (“Bates”) directly report to me. Patients that visit the Medical/Surgical Unit (“Med-Surg”) include either medical, post-operative, and occasional pediatric patients. In the nursing field, patient acuity involves the measurement of the level of care needed for a patient based on the severity of the illness and/or injury involved. District leadership responsible for the Med-Surg unit, including House Supervisors and myself, assess patient acuity on a regular basis.
3. Based on my duties and responsibilities as Chief Nursing Officer, I am familiar with and have knowledge of the Med-Surg Unit’s staffing practices and procedures. I meet with Nott and Bates on a weekly basis to discuss various issues and priorities, including staffing concerns. Additionally, I attend a Leadership Staffing Huddle at 7:45 a.m. from Monday to Friday to discuss staffing issues, and to ensure that House Supervisors account for various issues. Additionally, I round daily when I am on the District campus. During these rounds, staff members have the opportunity to share any staffing concerns with me. When staff share concerns with me, I immediately address them.
4. Throughout my tenure with the District, I have been involved in negotiations for approximately two or three Memorandums of Understanding (“MOUs”) between the District and its representative union, American Federation of State, County & Municipal employees Local 315 (“AFSCME” or the “Union”). The bargaining unit represented by AFSCME includes employees in the Registered Nurse (“RN(s)”) classification.
5. Around September 2025, I attended a bargaining session between the District and the Union to discuss various issues, including staffing. During that session, Union representatives discussed a proposal to revise Article 45 of the MOU to incorporate a requirement to staff two RNs at all times for the District’s Med-Surg Unit, regardless of patient census. As context for this proposal, Union representatives advised that they believed House Supervisors did not always consider patient acuity levels when making staffing decisions. However, I was not given specific dates or details of past incidents when House Supervisors did not consider patient acuity. In response, I reminded Union representatives that the District always adheres to California’s minimum staffing requirements, while also staffing shifts based on patient acuity and needs. Further, I informed the Union that it was not always necessary to staff two RNs when the Med-Surg Unit had four patients or less. Additionally, I reminded Union representatives that Med-

Surg staff members have access to various resources that enable them to provide safe and appropriate patient care. Nevertheless, I informed Union representatives that I would address their concerns with House Supervisors.

6. A few days after I attended the bargaining session, I met with Bates and Nott. During this meeting, I suggested that Nott revise the Staffing Guidelines to make clear that House Supervisors must always consider patient acuity. To that end, I suggested that Nott remove an asterisk that identified when House Supervisors considered patient acuity. Further, I informed Nott to make other revisions as needed to address the Union's staffing concerns. Staffing Guidelines are meant only as a guide for House Supervisors when they make staffing decisions. The Staffing Guidelines are not a policy. I am aware that House Supervisors deviate from the Staffing Guidelines as needed, based on patient acuity and needs. Staffing Guidelines are separate and distinct from employee schedules.

Executed on November 24, 2025, at Bishop, California.

By: 
By: Allison Partridge (Nov 24, 2025 09:15:43 PST)
Allison Partridge







DECLARATION OF ALLISON PARTRIDGE

Final Audit Report

2025-11-24

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By:	Taylor Sinopoli (Taylor.Sinopoli@aalrr.com)
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"DECLARATION OF ALLISON PARTRIDGE" History

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DECLARATION OF JUSTIN NOTT

DECLARATION OF JUSTIN NOTT

I, Justin Nott, declare as follows:

1. I currently work as “Director of Nursing Inpatient Services” (“Director”) for Respondent Northern Inyo Healthcare District (“District”). I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would competently testify to the facts and matters contained herein.
2. I started working for the District in 2015 as a Registered Nurse (“RN”) for the Intensive Care Unit (“ICU”). I later promoted into the House Supervisor position, then promoted to be the Manager of the ICU and Medical/Surgical (“Med-Surg”) Units. Since 2023, I have worked as Director of Nursing Inpatient Services. I report directly to the Chief Nursing Officer, Allison Partridge (“CNO Partridge”). In my role, I oversee and support several units including the Med-Surg and ICU Units. Med-Surg Unit Manager, Michael Montano reports directly to me.
3. Based on my duties and responsibilities as Director, I am familiar with and have knowledge of the Med-Surg Unit’s staffing practices and procedures. Specifically, I routinely meet with District management team members to discuss issues including any staffing concerns. From Monday to Friday, at approximately 7:45 a.m., I attend a Leadership Staffing Meeting with CNO Partridge, Director of Nursing Outpatient Services, Jenny Bates, and Med-Surg Unit Manager, Montano, among others. During these meetings, we routinely discuss any staffing concerns, including concerns raised by staff.
4. I am aware that Montano is responsible for creating Med-Surg Unit shift schedules. I am aware that Montano commonly schedules at least 2 – 3 RNs and at least 1 - 2 Certified Nursing Assistants (“CNAs”) per shift. Depending on patient census and patient acuity, House Supervisors determine how many employees to call-in. In the nursing field, patient acuity involves the measurement of the level of care needed for a patient based on the severity of the illness and/or injury involved. I am aware that several times in 2025, House Supervisors have modified the number of staff called-in based on feedback from Med-Surg Unit employees.
5. In addition to being familiar with the Med-Surg’s staffing practices, I am also familiar with the minimum staffing requirements imposed by California regulatory law; we refer to it as Title 22 staffing requirements. District staff assigned to the Med-Surg Unit, including myself as well as House Supervisors, assess patient acuity on a regular basis.
6. Throughout my tenure as Director, from 2023 to the present, I am aware that Med-Surg shifts are commonly staffed above Title 22 staffing requirements based on patient acuity and needs. For example, I am aware that House Supervisors have called-in two RNs for three high-acuity patients in the Med-Surg Unit. I am also aware that House Supervisors have called-in two RNs for four low-acuity patients in the Med-Surg Unit. Additionally, I am aware that House Supervisors have called-in two or more RNs for a patient census of five or more.

7. In my role, I am responsible for revising the District's "Master Staffing Guidelines" ("Staffing Guidelines"). I have revised the Staffing Guidelines based on feedback I received from RNs about staffing and patient census trends. However, I determined how to revise the Staffing Guidelines. Throughout my tenure at the District since 2015, I am aware that the Staffing Guidelines have been revised at least six times. The Staffing Guidelines are meant only as a guide for House Supervisors when they make staffing decisions. The Staffing Guidelines are not a policy. I am aware that House Supervisors deviate from the Staffing Guidelines as needed based on patient acuity and needs. The Staffing Guidelines are meant to be posted in the House Supervisors' Office, which is located on a separate floor from the Med-Surg Unit.
 8. On or around March or April 2025, I was made aware that at least two day-shift RNs raised concerns with management. Namely, the RNs had concerns as to properly servicing patients in the event of Code Blue or when having to sign off on patient medications, when only one RN was called into the shift. To address these concerns, I held a meeting with RNs, on or around April 10, 2025, to discuss the District's available resources. Specifically, I reminded RNs that they were able to escalate any immediate patient safety concerns to House Supervisors, Montano, or myself. As Director, I have routinely stepped in to cover tasks or assignments when other RNs were unavailable.
 9. In or around September 2025, CNO Partridge and I discussed the Staffing Guidelines. CNO Partridge suggested revising the Staffing Guidelines to clarify that management always considers patient acuity when making staffing decisions. Accordingly, I revised the Staffing Guidelines to specify that "Patient acuity is taken into account with all staffing decisions." Additionally, I revised the RN and CNA staffing suggestions as follows:
 - For 4 patients: I revised the suggested RN staffing from "1" to "1-2."
 - For 3 patients, I revised the suggested CNA staffing from "0" to "1."
 - For 2 patients, I revised the suggested CNA staffing from "0" to "0-1."
- Attached as Exhibit 1 is a true and correct copy of the Staffing Guidelines revised in September 2025.
10. I made these revisions to remind House Supervisors to ensure they kept patient acuity in mind when making staffing decisions. However, even with these revisions, the Staffing Guidelines remained as suggestions and were not synonymous with work schedules for RNs and/or CNAs.
 11. Throughout my tenure as Director, I have never felt concerned that the Med-Surg Unit's staffing numbers could jeopardize patient safety or care.

Executed on November 24, 2025, at Bishop, California.

By: Justin Nott
Justin Nott (Nov 24, 2025 09:46:23 PST)
Justin Nott


DECLARATION OF JUSTIN NOTT


Final Audit Report


2025-11-24


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"DECLARATION OF JUSTIN NOTT" History

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EXHIBIT 1

From: [Marjorie Routt](#)
To: ["Jane McDonald"](#)
Subject: NOENCRYPT: RE: staffing matrix
Attachments: [image002.png](#)
[Master Staffing Guideline FY26 .pdf](#)

Hi Jane,
Please see the attached.

Respectfully,

Marjorie Routt

Marjorie Routt, BSAM
Human Resources Manager
T: (760) 873-2019 E: marjorie.routt@nih.org

Upcoming Out-of-Office Dates:



“We must find time to stop and thank the people who make a difference in our lives.” - John F. Kennedy

From: Jane McDonald <jane.mcdonald@ca.afscme57.org>
Sent: Tuesday, October 14, 2025 9:54 AM
To: Marjorie Routt <Marjorie.Routt@nih.org>
Subject: [EXTERNAL MAIL]staffing matrix

**** This message has originated from outside the NIH network and has been tagged as EXTERNAL ****

**** Use care when opening attachments. Attachments are a common method for delivering malware. Do you know the sender? Were you expecting this attachment? If the message appears suspicious to you in any way, DO NOT click on any links or open the attachment(s) and NEVER FORWARD any emails that you have questions about.**

If you are unsure what to do please Contact the service desk by email or phone servicedesk@nih.org or X2835. **

Hi Marjorie,

Please provide the updated staffing matrix for Med Surg.

Thank you,

Jane

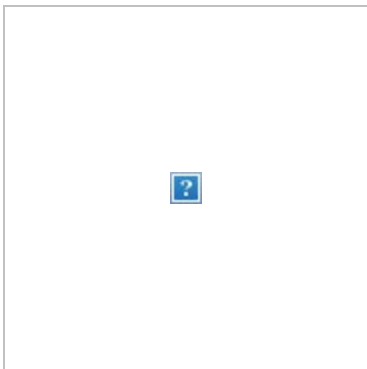
Jane McDonald

East of Sierra Representative, AFSCME Council 57

Jane.McDonald@ca.afscme57.org

760-208-9938

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NIHD
Staffing Management Plan
Master Staffing Guideline
(Patient acuity is taken into account with all staffing decisions)
FY 2026

Department: MS

Cost Center:6170

WORKED (Hppd goal):14.5

Bed Capacity: 16

HPPD Range

Number of Patients	06-1630	07-1930		11-2330	1600-0230	19-1730		HRS/HPPD
	Clerk	RN	CNA	RN	Clerk	RN	CNA	(UC, CNA, RN)
16	1	4	2	1	1	4	2	164/10.25
15	1	4	2	1	1	4	2	140/9.33
14	1	3-4	2	1	1	3-4	2	140/10
13	1	3	2	1	1	3	2	140/10.77
12	1	3	2	1	1	3	2	140/11.67
11	1	3	2	1	1	3	2	140/12.73
10	1	3	2	1	1	3	1	140/14
9	1	2-3	2	1	1	2-3	1	116/12.89
8	1	2	2	1	1	2	1	116/14.5
7	1	2	1	1	1	2	1	104/14.86
6	1	2	1	1	1	2	1	104/17.33
5	1	2	1	1	1	1	1	92/18.4
4	1	1-2	1	1	1	1	1	80/20
	Clerk/CNA				Clerk/CNA			
3	1	1	1	1	1(till 23)	1	1(@23)	60/20
2	1	1	0-1	0	1(till 23)	1	1(@23)	48/24
1	1	1	0	0	1(till 23)	1	1(@23)	48/48
0	OC	OC	0	0	0	OC	OC	

RN Ratio 1:5 MS
 1:4 Stable Telemetry (One RN cares for all Tele Patients)
 1:4 Pediatrics
 1:5 SWING

OC = 1 on-call

Dev:12/13,
Last Revised: 9/25

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Los Angeles,
State of California. I am over the age of 18 years. The name and address of my
Residence or business is 12800 Center Court Drive, Suite 300, Cerritos, CA 90703
12800 Center Court Drive, Suite 300, Cerritos, CA 90703

On 11/24/2025, I served the Respondent's Position Statement
(Date) (Description of document(s))

(Description of document(s) continued) in Case No. SA-CE-1318-M
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).)*

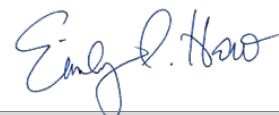
(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)

Susan Garea, Esq.
Beeson, Tayer & Bodine
492 Ninth Street, Suite 350
Oakland, CA 94607
Tel: (510) 625-9700
Fax: (510) 625-8275
Email: sgarea@beesontayer.com

Mary Weiss
Senior Regional Attorney
Los Angeles Regional Office
425 W. Broadway, Suite 400
Glendale, CA 91204-1269
Tel: 818-696-6348
Email: Mary.Weiss@perb.ca.gov

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 11/24/2025,
(Date)
at Cerritos California.
(City) (State)

Emily I. Haro



(Type or print name)

(Signature)