

ANNUAL REPORT FOR 2023








PERC

PUBLIC EMPLOYMENT
RELATIONS COMMISSION



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Director's Message

I am pleased to present the Public Employment Relations Commission's Annual Report for 2023.

After conducting all services virtually since March 2020, PERC reintroduced in-person services in January 2023. We saw a gradual increase in requests for in-person services, particularly in the fall. Still, most services are conducted remotely or virtually.



Conflict prevention cases, which were the cases most impacted by the pandemic, rebounded to the pre-pandemic level in 2023. Representation cases continued to come in at a high rate. The number of election petitions filed was the highest since 2004, when state employees were granted full collective bargaining rights. Meanwhile, the number of requests to mediate collective bargaining agreements was the lowest in PERC's 47-year history.

We also implemented the rule changes that became effective at the beginning of 2023. The biggest changes involved processes and timelines around dispositive motions as well as the creation of an advisory opinion process for state interest arbitration eligible groups. We continue to see an increase in the filing of summary judgment motions, so we needed to institute common timelines and procedures for them. As for the advisory opinion process, it is designed to address challenges to resolving questions about whether a subject is a mandatory subject of bargaining within the tight timeline to complete bargaining for state employees.

We also finally launched our E-Filing system, which allows our clientele to file directly into our case management system.

Last but not least, we said goodbye to longtime Commission chair Marilyn Glenn Sayan. Marilyn stepped down from the Commission after 27 years.

The annual report is more than data and trends. It reflects real issues and real results for employers, unions, and represented employees. It also reflects the hard work of PERC staff. I am immensely proud and grateful for all they do to make PERC successful and for public-sector collective bargaining in Washington.

Mike Sellars, Executive Director

Agency Overview

PERC is an independent state agency created to implement Washington State’s collective bargaining laws and resolve public-sector labor relations disputes. PERC has jurisdiction over collective bargaining for public employers in Washington.

The Commission

Through 2023, Mark Busto, Elizabeth Ford, and Marilyn Glenn Sayan sat on the Commission. The Commission’s function is to adopt rules and decide appeals of decisions issued by agency staff. Commissioners work part time and on a per-diem basis. They are appointed by the Governor for five-year terms. Commissioner biographies are available at <https://perc.wa.gov/commission>.

Executive Director

The Commission appoints the executive director who oversees the daily operations of the agency, determines bargaining unit configurations, and certifies bargaining unit representatives. The executive director also engages in outreach and training, mediation, and adjudication. Eight staff members report directly to the executive director.

MISSION
PERC provides expert, impartial, and timely resolution of labor-management disputes so that any disruption to public services is prevented or limited.

VISION
Leaders in labor relations and dispute resolution. Partners in improving labor-management relations.

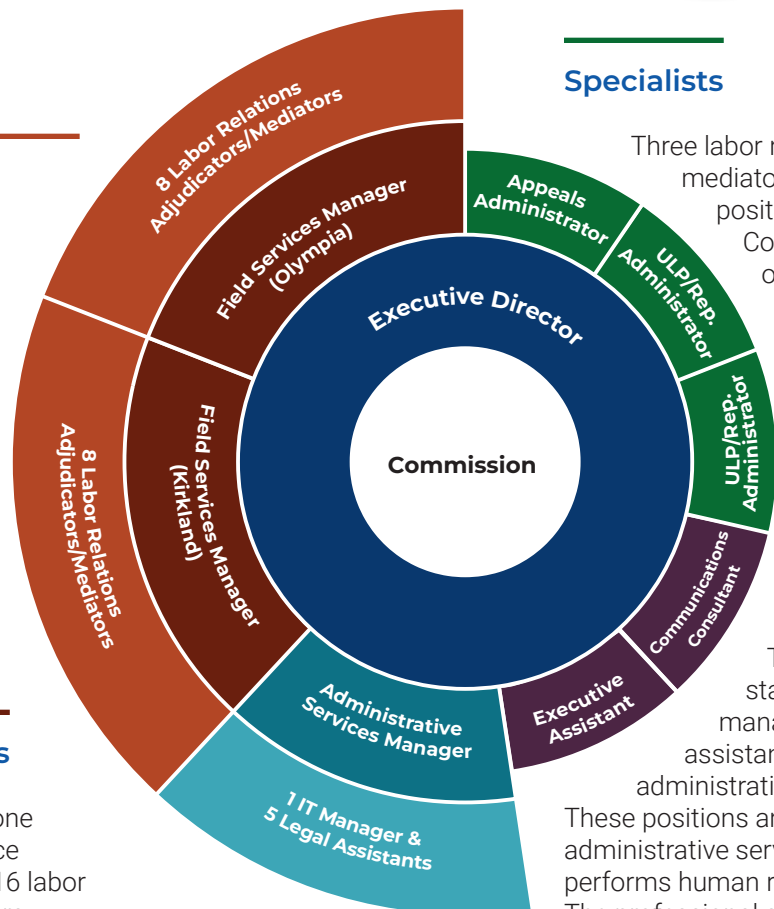
VALUES
Excellence, Innovation, Integrity, Neutrality, Credibility, Respect, and Balance

Labor Relations Adjudicators/Mediators

Labor relations adjudicators/mediators are classified state employees cross-trained to conduct both mediations and adjudications as well as conflict prevention services. They primarily work in the field, traveling to the parties’ locations throughout the state.

Field Services Managers

Two field services managers, one working in each of PERC’s office locations, supervise a total of 16 labor relations adjudicators/mediators.



Specialists

Three labor relations adjudicators/mediators work in specialist positions, one assisting the Commission with its work on appeals, and two jointly overseeing representation matters and managing the intake process for unfair labor practice complaints.

Professional Staff

The professional staff includes an IT manager and five legal assistants that provide clerical, administrative, and technical support. These positions are supervised by the administrative services manager, who also performs human resources functions. The professional staff also includes a communications consultant who oversees external communications, including the website, and the executive assistant to the executive director, who also functions as clerk to the Commission.

Employee and salary information is available in the State Employee Salaries database at <https://fiscal.wa.gov/Staffing/Salaries>.

Interim Report on 2023–25 Strategic Plan

When PERC completed its strategic plan in 2014, it identified five goals for PERC that stem directly from its statutory mandates. These goals are permanent in nature and carry over to subsequent strategic plans, including the 2023–25 Strategic Plan:

1. **Productive Labor Management Relations:** Improving the relationship between labor and public employers
2. **Right to Organize:** Ensuring public employees' right to organize
3. **Right to Collectively Bargain:** Ensuring public employees' right to collectively bargain
4. **Conflict Resolution:** Resolving labor-management disputes
5. **High Performing Organization:** PERC is a high-performing organization

Of these goals, the first—improving the relationship between labor and public employers—is the paramount or overarching goal. The remaining goals reinforce and roll up to that goal. The objectives and individual initiatives collectively help PERC meet all five goals and achieve its mission to prevent or minimize the disruption to public services through the impartial, timely, and expert resolution of labor-management disputes.

The year 2023 marked the first year of the current strategic plan. The following details the progress on initiatives that were slated for 2023.

Objective 1: Deliver innovative and effective services in an accessible and efficient manner.

- Reintroduce in-person services; continue to offer virtual services. (2023)**
Began offering in-person services at the discretion of the labor relations adjudicators/mediators (LRAMs) in January 2023.
- Utilize technology to provide services. (Ongoing)**
- Clientele begin using e-filing to file cases and documents. (2023)**
Launched E-Filing to external users in December 2023.
- Implement new rules. (2023)**
- Develop process for advisory opinions. (2023)**
Issued first advisory opinion in June 2023.
- Repurpose office space to meet needs of hybrid work and virtual service offerings. (2023/2024)**
Deferred depending on more statewide direction on space allocation.
- Streamline case consolidation process. (2023)**
Implemented new consolidated case type that simplifies managing consolidated cases.
- Ensure all agency templates are clear, concise, and understandable. (Ongoing)**

Objective 2: Continue to issue timely, cogent, and legally sound decisions.

- Issue timely decisions. (Ongoing)**
 - ▶ 85% of examiner decisions are issued within 90 days of the close of the record.
80% of examiner decisions were issued within 90 days of the close of the record.
 - ▶ 100% of executive director decisions are issued within 90 days of the close of the record.
95% of executive director decisions were issued within 90 days of the close of the record.



- ▶ 100% of Commission decisions are issued within 180 days of the close of the record; 80% within 90 days of the close of the record.
100% of Commission decisions were issued within 180 days of the close of the record; 29% were issued within 90 days of the close of the record.

Issue cogent, legally sound decisions. (Ongoing)

- ▶ 100% of decisions are unchanged following appeal to court.
- ▶ Ensure that Commission decisions are consistent with prior decisions or that any departure or differentiation from prior Commission decisions is acknowledged and explained so that clientele are able to understand the decision.

Review and update agency style guide. (2023)
Review in progress.

Objective 3: Conduct effective and responsive mediations.

Transition back to providing in-person services while continuing to provide virtual services. (2023)
Began offering in-person services at the discretion of the LRAMs in January 2023.

Utilize technology to enhance mediation services. (Ongoing)
Primarily through conducting virtual and hybrid mediations.

Further develop staff mediation skills through training, research, book and article review, discussion, and LRAM meetings. (Ongoing)
Primarily through LRAM meetings.

Assess effectiveness of mediation through field services managers' observations of mediation. (Ongoing)

Explore additional mediation training tools (Zoom learning sessions, podcasts). (Ongoing)

Objective 4: Ensure public employees exercise their right to choose through an accessible, clear, efficient, and equitable representation process.

Identify additional outreach that could be done to educate people about representation case process

and eliminate common mistakes or roadblocks to quicker processing of petitions. (2023)
Training and outreach conducted with three entities.

Conduct election or card check within annually set goals for the number of days for cases with uncontested issues and for cases with contested issues. (Ongoing)

Elections and card checks were conducted within goal time frames.

Objective 5: Expand conflict prevention and outreach services.

Reintroduce in-person services; continue to provide virtual services. (2023)

Began offering in-person services at the discretion of the LRAMs in January 2023.

Utilize technology to enhance and expand training and outreach services. (Ongoing)

Primarily through the Negotiation Project and PERColator Podcast.

More accurately track training and outreach data (types of training requests), including for the Negotiation Project and The PERColator Podcast. (2023)

Assess data from types of training provided to inform new training offerings. (Ongoing)

Meet regularly with Clientele Consultation Committee regarding PERC services and labor relations issues facing the community. (Ongoing)

Meet twice yearly with Clientele Consultation Committee.

Actively participate in the Association of Labor Relations Agencies (ALRA). (Ongoing)

Actively participate in the Northwest Chapter of the Labor and Employment Relations Association (LERA); co-sponsor and present at the annual LERA conference. (Ongoing)

Regularly communicate agency performance through website, social media, and annual report. (Ongoing)

Objective 6: Provide accessible, clear, and timely agency communications.

Regularly communicate agency performance on website and social media. (Ongoing)

- Issue annual report. (Ongoing)
- Communicate strategic plan progress annually in annual report. (2023)
- Expand self-help tools and guides for participants. (2023/2024)
In development.
- Communicate information and instructions on e-filing. (2023)

Objective 7: Ensure that staff have the capacity, commitment, resources, and support to meet the agency mission and vision.

- Prepare and support agency staff in the reintroduction of in-person activities. (2023)
Began offering in-person services at the discretion of the LRAMs in January 2023.
- Ensure technology is sustainable and allows agency to adapt and utilize tools that will enhance service delivery. (Ongoing)
- Ensure that agency technology supports hybrid and remote work. (Ongoing)
- Review and update agency deskbook on biennial basis. (2023 & 2025)
Reviewed but not yet updated.
- Review examples and procedures currently in staff manual to ensure it contains most recent and correct versions, then issue in separate document. (2023)
In progress; timeline revised.
- Annually gather staff feedback on training needs and deliver training based upon feedback. (Ongoing)
- Provide staff training for working with self-represented individuals. (2023)
Withdrawn to focus on litigant tools, particularly for self-represented litigants.
- Provide staff training on writing. (2023)
- Review, and revise as necessary, current Salesforce practices for capturing training and outreach data to ensure it accurately captures and quantifies work involved. (2023)
Initial revisions made.
- Timely complete performance evaluations and expectations. (Ongoing)

- Explore cross-training opportunities. (Ongoing)

Objective 8: Maintain expert staff to deliver services.

- Increase diversity of hiring pools through outreach. (Ongoing)
- Support diversity in the workplace by fostering a culture of inclusion. (Ongoing)
In progress.
- Work with the Office of Financial Management to ensure proper comparators are selected for salary survey of classified positions. (2023)
In progress.

Objective 9: Continue to be a credible resource on labor law developments, trends, issues, and research.

- Continue to utilize membership in ALRA to research and share best practices and developments regarding labor relations and neutral agencies' administration of collective bargaining statutes. (Ongoing)
- Continue to research labor relations and dispute resolution developments and best practices. (Ongoing)
- Continue to support and provide opportunities for staff to develop and demonstrate their expertise (ABA LEL, LERA, ALRA, NW ADR, teaching, membership on arbitrator panels). (Ongoing)
Staff are on ABA, LERA, ALRA, and NW ADR committees; hold leadership positions within ALRA; teach labor relations and negotiations classes at the University of Washington and Seattle University law schools; and are members of arbitrator panels in other jurisdictions.
- Communicate expertise and developments as appropriate. (Ongoing)
- Review and update agency deskbook on biennial basis. (2023 & 2025)
Reviewed but not yet updated.
- Utilize agency outreach tools and medium to research, share best practices and labor relations developments, and hone and communicate agency expertise. (Ongoing)

Milestones in 2023

In-Person Services Resumed

Beginning in January 2023, PERC reintroduced in-person services. Since then, each individual mediator/adjudicator has the discretion to decide whether an event will be in person or remote.

Throughout 2023, the bulk of services continued to be conducted virtually as most clientele did not seek to conduct services in person. The rate of in-person services picked up in the fall, but most events are still conducted remotely.

Rule Changes Implemented

In November 2022, the Commission passed a number of rule changes. These changes became effective at the beginning of 2023 and were implemented throughout the year. Two of the biggest changes involved advisory opinions for state interest arbitration eligible groups and time frames and processes for dispositive motions.

Advisory Opinion Process Developed and First Advisory Opinion Issued

As mentioned, one of the rule changes involved the creation of an advisory opinion process for state interest arbitration eligible groups. Unlike other interest arbitration eligible groups, state interest arbitration eligible groups must complete their bargaining and receive any interest arbitration award by October 1 in order for the legislature to fund the award during the next legislative session. Any disputes over whether an issue is a permissive subject of bargaining and is not subject to interest arbitration generally preclude the parties from meeting that statutory October 1 deadline.

The rule change to allow for advisory opinions was developed in consultation with state employers and unions and is designed to get an initial opinion from the executive director as to whether a subject is mandatory or permissive with the hope that it will prevent a dispute on the issue and preclude meeting the October 1 deadline. The executive director has discretion to determine whether to issue an advisory opinion, which would be due within 30 days of all briefing.

In 2023, PERC received the first request for an advisory opinion. The advisory opinion involved adult family home providers and the manner of their reimbursement by the state. Advisory opinions are posted on our website at https://decisia.lexum.com/waperc/advisory-opinions/en/nav_date.do.

E-Filing System Launched

In December, PERC launched its [E-Filing system](#) to external users. The system is integrated with PERC's case management system and allows users to file directly into it.

Executive Director Concludes Term as ALRA President

PERC executive director Mike Sellars concluded his term as president of the Association of Labor Relations Agencies (ALRA), an association of neutral labor relations agencies in the United States and Canada. Mike is the third agency member to serve as ALRA president. Former Commission chair Marilyn Glenn Sayan and former executive director Marv Schurke both previously served as ALRA president.

Totals
for All Services
and Internal and
External Meetings
Conducted
Virtually in
2023:

MINUTES:

1,311,203

(down 40% from
2022)

SESSIONS:

2,781

(down 17% from
2022)



Marilyn Glenn Sayan Steps Down from the Commission

The end of 2023 marked the end of an era for PERC, as Marilyn Glenn Sayan stepped down from the Commission after 27 years as chair. The December 2023 Commission meeting was her last, and while Marilyn was insistent that there be little fanfare surrounding her departure, her tenure, accomplishments, and all that she had done for PERC were noted.

Marilyn began state service in 1960, earning her bachelor's degree in 1979 from The Evergreen State College and her law degree in 1983 from the University of Puget Sound School of Law. Marilyn moved from largely clerical roles to various management roles with the state's Higher Education Personnel Board. She then moved to the Department of Personnel, where she served as labor relations manager, deputy director, and then director.



Marilyn was appointed to the Commission by Governor Gary Locke in 1996, following her retirement as a full-time state employee and as the director of the Washington State Department of Personnel in 1995. She was reappointed four more times by three subsequent governors—a feat unheard of in Washington State government. By all accounts, Marilyn is the longest-serving labor board chair in North America. Combining her tenure as a state employee with her time as Commission chair, Marilyn served the citizens of the state of Washington for over 61 years.

During Marilyn's 27 years on the Commission, more than 21,000 cases were filed, and she signed over 600 decisions and worked with 10 different commissioners. Marilyn also represented PERC through her work with ALRA, where her skill at building relationships helped PERC staff learn and communicate best practices from other labor boards in the US and Canada. Marilyn was on the ALRA executive board from 1990 until 2006 and served as ALRA president in 2006–2007.

Marilyn has been stalwart in her support of collective bargaining and giving employees a voice. Marilyn's dedication to the fair and equitable treatment of employees and all people was a hallmark of her tenure in state service. She was always very grateful for and supportive of PERC staff. For many years, she and her husband Doug would host a barbecue for staff at their home on the Puget Sound, serving local salmon and oysters from their oyster beds. Marilyn has also been very active in her community. She was a founding and longtime board member of Turning Pointe Survivor Advocacy Center, which provides support and services for victims of sexual and domestic violence.

Marilyn pictured with Commissioners Elizabeth Ford and Mark Busto; Labor Relations Adjudicators/Mediators Guy Coss, Emily Whitney, Chris Casillas, Matt Greer, Page Todd, and Karyl Elinski; and Executive Director Mike Sellars.



Strategic Service Delivery

As a neutral entity, PERC protects the collective bargaining rights granted to approximately 475,000 public employees through the fair and timely administration of mediation, adjudication, representation, and conflict prevention services.

Looking Back at 2023

PERC began reintroducing in-person services in January. Initially, services continued to be overwhelmingly conducted virtually. By the fall, we started to see an increase in requests for in-person services.

That development appeared to benefit conflict prevention cases, which were the most impacted by the pandemic and the all-virtual format. The years 2020, 2021, and 2022 had the lowest amounts of requests for conflict prevention services since 2013, when we began expanding our offerings. In 2023, the volume of conflict prevention cases matched the pre-pandemic high of 2019.

Overall, filings were slightly above the average since 2012. Representation cases continued to come in at a high rate. On the flip side, the number of requests to mediate collective bargaining agreements was the lowest in PERC's 47-year history.



Representation

Elections • Bargaining Unit Clarifications

- ▶ For the second consecutive year, the volume of representation cases was the highest since the early 2000s.
- ▶ Of all the election petitions filed, 81% involved new organizing.



Mediation

Collective Bargaining Agreements • Grievances • ULP Complaints

- ▶ The number of requests to mediate collective bargaining agreements was the lowest in PERC's 47-year history.
- ▶ Agreements were reached 99% of the time in mediations involving collective bargaining agreements.



Adjudication

ULP Complaints • Grievance Arbitrations • BU Configurations

- ▶ The percentage of unfair labor practice complaints filed by self-represented individuals decreased from last year's high of 38% to 23%.
- ▶ The time to hearing was the highest over the last 12 years.



Conflict Prevention

Training • Outreach • Facilitation • Online Resources

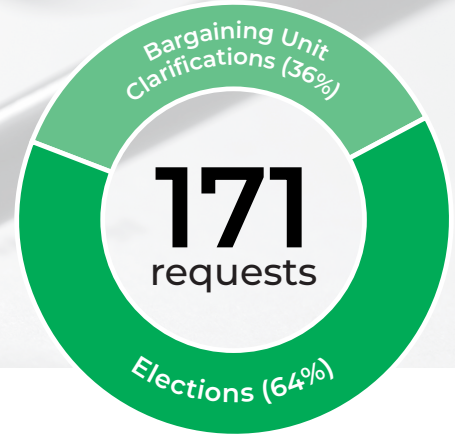
- ▶ Influenced in part by the reintroduction of in-person services, the number of conflict prevention requests returned to the pre-pandemic level.

Other

Upon request, PERC provides parties with a randomly generated list of names from its panel of qualified private arbitrators. PERC assigns arbitrators from its Law Enforcement Arbitrator Roster to conduct disciplinary grievance arbitration for law enforcement personnel. PERC also certifies to interest arbitration any issues remaining in dispute following mediation for employees under certain statutes.

Representation

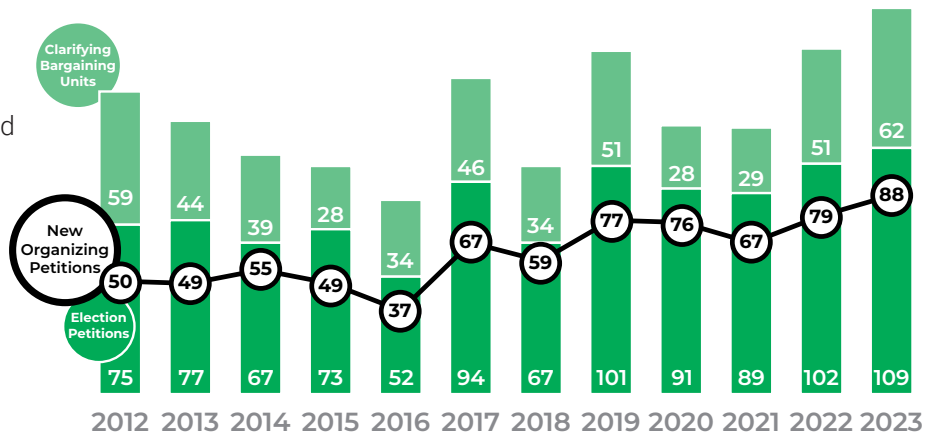
A cornerstone of the state's collective bargaining laws is the right of employees to decide whether to be represented for purposes of collective bargaining.



Representation activity continued to be high. The number of election petitions filed in 2023 was the highest since 2004, when the Personnel System Reform Act passed and state employees were granted full-scope collective bargaining.

Of the 109 election petitions, 81% involved new organizing.

A total of 74 bargaining units were created through election or card check—the most in any year since 2012.



74 elections or card checks conducted.

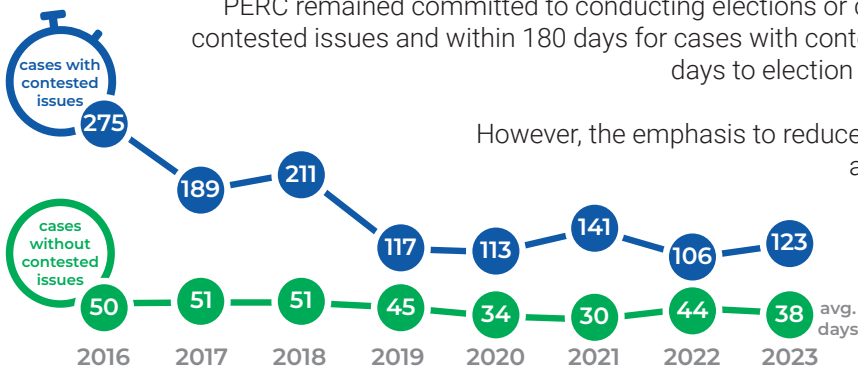
81% of employees exercised their right to choose.

Public Employees Continued to Exercise Their Right to Choose

Legislation passed in 2019 lowered the threshold for an election by card check from requiring the support of over 70% of the petitioned-for employees to requiring over 50%. However, card checks are, on average, conducted with the support of over 80% of the petitioned-for employees.

Time to Election or Card Check Stayed within Goals

PERC remained committed to conducting elections or card checks within 45 days for cases without contested issues and within 180 days for cases with contested issues. In 2023, the average number of days to election or card check stayed well within these goals.

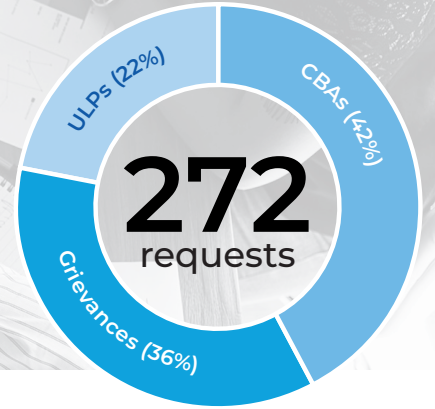


However, the emphasis to reduce the time to election or card check has come at the expense of processing unit clarification petitions. Those cases are routinely taking well over a year to resolve. We need to explore ways to reduce the time to process unit clarification petitions without sacrificing the progress we have made in processing election petitions.



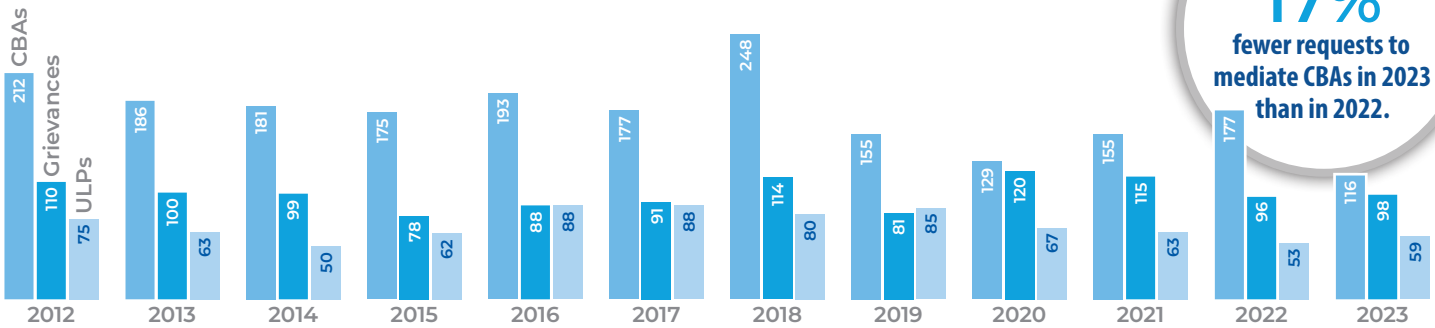
Mediation

In mediation, PERC staff members serve as neutrals to help parties in conflict define issues, explore solutions, and reach mutual agreement. Mediation is voluntary, and the parties are in control of any resulting agreements.



PERC conducts three types of mediations involving collective bargaining agreements (CBAs), grievances, and unfair labor practice (ULP) complaints.

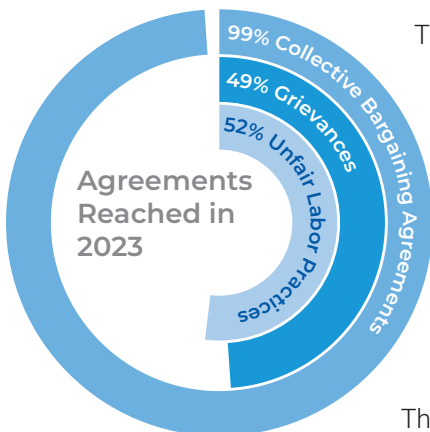
Mediation requests have historically comprised the majority of cases filed each year. In 2012–2022, they accounted for an average of 44% of the annual case volume. In 2023, however, mediation requests made up just 34% of the cases filed with PERC.



All three types of mediations fell below their respective previous five years' average. The volume of grievance mediation requests was down 7% from that average, while the number of requests to mediate unfair labor practice complaints was down 15%.

Most notable was the decrease in the number of requests to mediate collective bargaining agreements. The 116 requests in 2023 amounted to the lowest in PERC's 47-year history and 34% below the previous five years' average. The year that previously held the record for fewest requests to mediate collective bargaining agreements was 2020.

Strikes & Agreements Reached



Three strikes over collective bargaining agreements occurred in 2023. Two strikes involved teachers in the Camas and Evergreen School Districts and lasted 10 and 13 days, respectively. The other strike involved research scientists/engineers at the University of Washington and lasted 9 days. Ultimately, PERC was able to help the parties in these matters reach agreement.

In fact, **PERC helped parties to reach agreement in 99% of mediations involving collective bargaining agreements** in 2023. This was the highest since 2017, when PERC facilitated agreements in 96% of contract mediations, and well over the 88% average in 2012–2022.

The rate of agreement reached in grievance mediations rebounded from 34% in 2022 to 49% in 2023, and the agreement rate in mediations concerning unfair labor practice complaints increased from 50% to 52%.



Adjudication

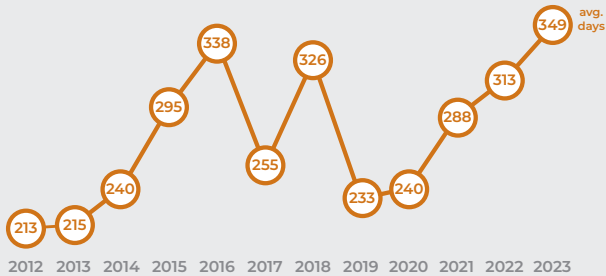
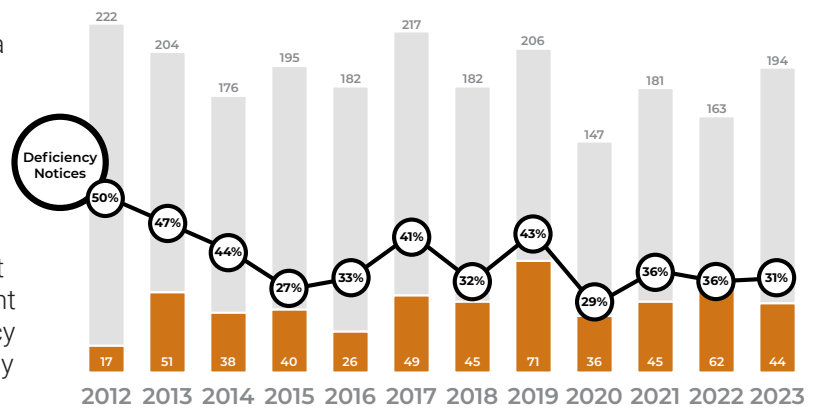
As recognized labor relations experts, PERC and its employees adjudicate unfair labor practice complaints, issues related to representation, and other various labor disputes.



The number of unfair labor practice complaints filed was the highest since the start of the pandemic, increasing by 18% between 2022 and 2023. The volume of unfair labor practice complaints that received a deficiency notice as a first response dropped from 36% to 31%.

The number of complaints filed by self-represented individuals accounted for just 23% of complaints filed in 2023—down from 38% in 2022. However, 70% of those complaints received a deficiency notice as a first response, similar to the number in 2022. Deficient complaints cause twice as much work for agency staff who issue deficiency notices and review any amended complaints.

Unfair Labor Practice Complaints & Volume Filed by Self-Represented Individuals



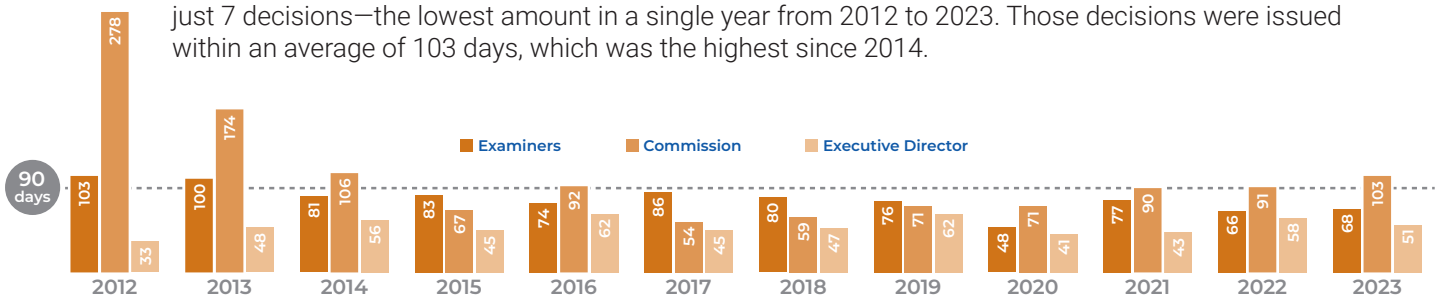
Time to Hearing

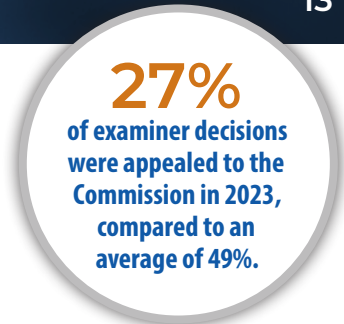
The average number of days to hearing was the highest in 12 years. Half of the unfair labor practice cases that went to hearing were filed by self-represented individuals.

While examiners have done well to issue decisions in an average of less than 90 days from the close of the record since 2014, PERC will make it a goal to improve time to hearing.

Time to Decision

In 2023, examiners issued 15 decisions within an average of 68 days from the close of the record. Only 4 of those decisions were appealed to the Commission, and none of the executive director's decisions were appealed. As a result, the Commission issued just 7 decisions—the lowest amount in a single year from 2012 to 2023. Those decisions were issued within an average of 103 days, which was the highest since 2014.





Key Decisions in 2023

 **Spokane County Fire District 4, Decision 13583-A (PECB, 2023)**

A union represented a bargaining unit of part-time firefighters and emergency medical technicians. The employer decided to create a class of full-time firefighters. In June 2021, the employer offered at least one part-time firefighter a full-time position. That employee began working as a full-time firefighter on August 1.

Full-time firefighters are interest arbitration eligible by statute, while part-time firefighters and emergency medical technicians are not. Interest arbitration eligible employees cannot be in the same bargaining unit as non-interest arbitration eligible employees. In July 2021, the employer and union began bargaining the effects of the employer’s decision to create a full-time firefighter position. The employer voluntarily recognized a bargaining unit of full-time firefighters represented by the union, and the parties entered into a memorandum of understanding covering the terms and conditions of those positions. The memorandum of understanding was effective August 1, 2021, through December 31, 2024.

On December 30, 2021, a separate union filed a petition to represent the bargaining unit of full time firefighters. The executive director dismissed the petition on the grounds that it was barred by the contract between the employer and the incumbent union. The petitioning union appealed to the Commission, arguing that the contract bar did not apply because the memorandum of understanding was an unlawful pre-hire contract.

The Commission affirmed the executive director, holding that the firefighter work was bargaining unit work for the mixed bargaining unit when the employer decided to create full-time firefighter positions. The parties were obligated to bargain the effects of the employer’s decision to create the full-time position. These effects included the terms and conditions of employment as well as the impact of adding interest arbitration eligible employees. The memorandum of understanding was the culmination of the employer’s and union’s statutory obligation to bargain the effects of the employer’s decision to add the employees.

The Commission further held that any customary ratification procedures that would apply when creating a contract bar for a collective bargaining

agreement that replaces an expiring agreement do not apply when the employer and union are negotiating a memorandum of understanding to address the effects of the employer’s decision.

.....

 **Washington State Language Access Providers, Decision 13344-C (PECB, 2023)**

Multiple unions petitioned to represent language access providers who provide spoken language services for the Washington State Department of Labor and Industries. The matter went to election. In that election, the winning union received nearly 80% of the ballots cast but was still shy of the majority of the bargaining unit, as required when there are more than two choices on the ballot. A runoff election was conducted with the same union winning just over 80% of the ballots cast. Since an election with only two choices on the ballot requires a majority of ballots cast to be conclusive, the election was conclusive. However, the losing union filed election objections. Two of the objections alleged misleading statements or behavior by the winning union. The Commission upheld those objections, dismissed the remainder, and ordered a new runoff election.

Before a third election could be conducted, the objecting party appealed to court the Commission’s dismissal of all but two of the objections. The appeal was ultimately dismissed because a direction of election is not a final agency order and is not ripe for judicial review. Rather, the certification of the bargaining unit is the final, appealable order.

Eventually, a third election was conducted. The same union won, again receiving over 70% of the ballots cast. Again, the losing union filed election objections, raising objections already raised and dismissed, such as that the winning union was not a qualified bargaining representative. Those objections were again dismissed and, after three elections, three appeals to the Commission, and nearly three years from the initial filing of the first representation petition, the winning union was certified as the exclusive bargaining representative. The matter is now on appeal in court.

Washington State Department of Children, Youth, and Families, Decision 13329-C (PSRA, 2023)

The complainant filed an unfair labor practice complaint alleging that the employer had discriminated against her by terminating her employment after she communicated to the employer her intent to file a grievance. The matter went to hearing. The examiner concluded that the complainant had failed to meet her burden and dismissed the complaint.

Since 2012, **87%** of Commission decisions have remained unchanged following appeal to court.

On appeal, the Commission affirmed the examiner, concluding that the complainant had failed to show the employer’s stated reasons for termination were pretexts for discrimination. The Commission noted that while the evidence showed that the employer had added charges to the termination letter following communication with counsel, the reasons for the termination did not change and were communicated to the complainant prior to her protected activity.

Franklin County, Decision 13726 (PECB, 2023)

A county sheriff initiated investigations of two deputies after receiving reports that the deputies had made false statements in unfair labor practice complaints filed against the employer. The investigation concluded that the deputies had been dishonest and committed numerous policy violations. The investigation recommended termination, but the sheriff demoted the deputies. The union then filed an unfair labor practice complaint alleging that the demotions constituted discrimination for filing the unfair labor practice complaints.

The examiner concluded that it was appropriate to distinguish between demoting the employees for filing unfair labor practice complaints versus investigating them for dishonesty in the complaints and demoting them for policy violations discovered during the investigation. The investigation was thorough and ultimately found the two deputies had committed 33 different violations. While the sheriff harbored animus toward the union, there was no evidence that this animus was a factor in the employer’s action.

Benton County, Decision 13740 (PECB, 2023); South Sound 911, Decision 13736 (PECB, 2023)

A petition to sever or add a group of employees from or to an existing bargaining unit must show a meaningful change in circumstances that alters or disrupts the community of interest and renders the existing unit inappropriate. Examples of meaningful changes that could potentially alter a community of interest are changes in job duties or working conditions for the petitioned-for employees. Additionally, severance may be appropriate if the petition shows inadequate representation by the incumbent bargaining representative. Employee dissatisfaction with the bargaining representative’s accomplishments or short-term inability to achieve goals does not constitute inadequate representation.

In *Benton County*, Decision 13740 (PECB, 2023), the petition to sever records clerks working in the sheriff’s office from a county-wide records clerks bargaining unit to place them into a bargaining unit of their own was dismissed. The records clerks who worked for the corrections department were moved from reporting to the sheriff to reporting to the county commissioners. Nonetheless, the records clerks in the sheriff’s office continued to share a community of interest with the other records clerks in the county. The change in reporting structure was insufficient to disrupt the community of interest.

In *South Sound 911*, Decision 13736 (PECB, 2023), the petition to accrete a bargaining unit of fire dispatchers into a larger bargaining unit of dispatchers was dismissed. The employer was created following the consolidation of emergency communications operations from other jurisdictions. Most of the dispatch employees were merged into one dispatcher bargaining unit shortly after the new employer became operational. There remained one bargaining unit that provided fire dispatch services, while the larger bargaining unit provided law enforcement dispatch services.

The petition to accrete the fire dispatcher bargaining unit was dismissed because there had not been a disruption to the unit’s community of interest. Accretion is only proper when the petitioned-for employees cannot stand on their own as a bargaining unit or appropriately be placed in another bargaining unit. The work performed by the fire dispatcher unit was separate and discrete from the work performed by the other dispatcher bargaining unit, so no work jurisdiction issues existed.

Read the full decisions online at decisions.perc.wa.gov.



Conflict Prevention

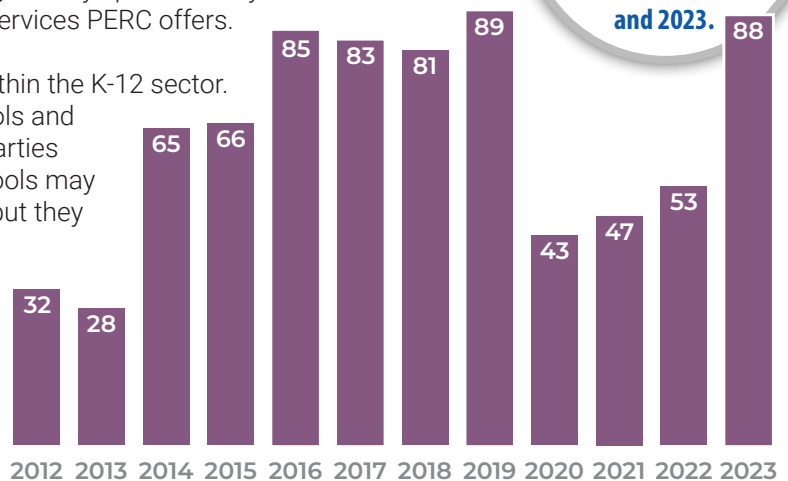
PERC's conflict prevention services help parties improve relationships, increase partnerships, and avoid mediation or unfair labor practice proceedings.

PERC saw a **66%** increase in conflict prevention requests between 2022 and 2023.

In 2023, the number of requests for conflict prevention services returned to the pre-pandemic level. The increase in requests was generally spread evenly between the different types of training and conflict prevention services PERC offers.

PERC also received more requests from groups within the K-12 sector. Those requests sought to learn new bargaining tools and skills for having intentional conversations as the parties prepared for the next round of bargaining. These tools may not necessarily eliminate all conflicts or disputes, but they teach parties how to navigate them.

The [PERColator Podcast](#) and monthly Zoom sessions for the Negotiation Project continued to be popular. The most downloaded episode in 2023 featured National Labor Relations Board General Counsel Jennifer Abruzzo.



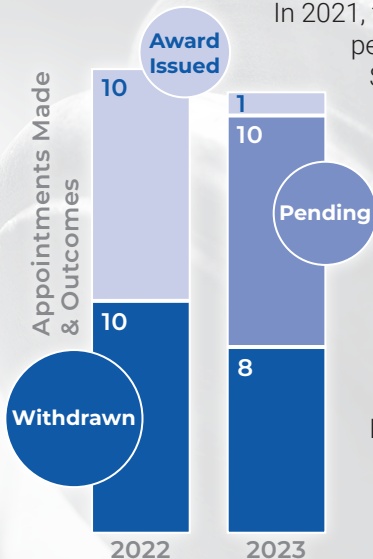
Law Enforcement Arbitrator Roster—Two Years Later

In 2021, the legislature passed RCW 41.58.070, which requires the Commission to appoint 9–18 persons to conduct disciplinary grievance arbitrations for law enforcement personnel. In September 2021, the Commission appointed 18 arbitrators to the roster. Six appointments expired in 2023, and three of the six vacancies were filled (all reappointments), leaving the roster standing at 15 members.

The executive director assigns arbitrators for all law enforcement disciplinary grievance arbitrations on a rotating, alphabetical basis. In 2023, 19 appointments were made, similar to the 20 made in 2022.

RCW 41.58.070 does not give the executive director any role or authority in determining the arbitrability—procedural or substantive—of a matter.

Eleven decisions have been issued and are posted on PERC's website.



Public-sector collective bargaining is vibrant in Washington. More and more employees are exercising their right to collectively bargain. PERC must consistently hone its tools and services to support public-sector collective bargaining and the people who engage in it.

On the Horizon

→ Legislative Employee Collective Bargaining

Begin implementing law granting collective bargaining rights to certain legislative employees.

→ Legislative Commission

The 2023 statute filling out details of the legislative employees collective bargaining law creates a legislative commission to hear appeals under the statute. PERC will support this commission, which will expire at the end of 2027.

→ Implement Legislation Authorizing E-Signatures for Organizing Unrepresented Employees

Begin implementing legislation authorizing the use of electronic signatures for organizing, including for card check, and conduct related rulemaking.

→ Compliance Rule

Begin rulemaking to create rules around compliance process.

→ E-Filing

Continue to refine and expand use of new E-Filing system by clientele. Eventually eliminate current filing by email.

→ Litigant Guide

Finalize and post to website a resource guide for litigants, particularly self-represented litigants.

→ Advisory Opinions

With bargaining for 2025–27 agreements for state employee groups occurring in 2024, continue to implement new advisory opinion process available to state interest arbitration eligible groups.