

Earn up to 13.75 MCLE Hours  
including 1.00 Hour Competence Issues and  
2.00 Hour Recognition and Elimination of Bias

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# 26TH PUBLIC SECTOR CONFERENCE 37TH LABOR AND EMPLOYMENT LAW SECTION ANNUAL MEETING

April 23 – 24, 2020 | Oakland Marriott City Center | 1001 Broadway, Oakland, CA 94607



# 26TH PUBLIC SECTOR CONFERENCE

8:00 a.m. – 5:15 p.m.      **Registration Open**  
8:00 a.m. – 9:00 a.m.      **Light Continental Breakfast Available**  
9:00 a.m. – 10:00 a.m.      **(Concurrent Sessions)**

## 1 The Many Meanings of “Due Process” in Workplace Investigations (1.00 Hour MCLE)

In this #MeToo world, workplace investigations are facing increased scrutiny regarding what process is due to those employees initiating complaints, to those employees who are the subject of a complaint, and to witnesses. The panelists will discuss the concerns and thoughts from both the employee and employer perspective.

**Moderator:** Christina Ro-Connolly, Law Offices of Amy Oppenheimer

**Speakers:** Jachyn Davis, CSAA Insurance Group  
Jean Krasilnikoff, Siegel LeWitter Malkani

## 2 PERB 101: An Overview of the Process, Recent Changes, and Upcoming Trends (1.00 Hour MCLE)

What exactly does PERB do, and how do they do it? Our experienced PERB Board agent and seasoned practitioners from both management and labor will walk you through the steps in the PERB process, from filing an initial unfair labor practice through the Board appeal process. Along the way, you will hear tips and tricks for success, and learn about new procedures and other changes under way at PERB. Our practitioners will also discuss trends and their predictions for what the future holds.

**Moderator:** Nicole Heeder, SEIU Local 1000

**Speakers:** James Coffey, PERB Senior Regional Attorney  
Adrianna E. Guzman, Leibert Cassidy Whitmore  
Kathleen Mastagni Storm, Mastagni Holstedt

10:15 a.m. – 11:45 a.m.

## 3 In One Year and Out the Other: Year in Review (1.50 Hours MCLE)

Experienced and dynamic speakers will provide an overview of the latest developments over the past year in California public sector labor and employment law. The review will include updates on recent court decisions, new legislation, and administrative agency decisions.

**Moderator:** Janet Cory Sommer, California Public Employers Labor Relations Association

**Speakers:** Tim Yeung, Sloan Sakai Yeung & Wong LLP  
Kerianne Steele, Weinberg Roger & Rosenfeld APC

12:00 p.m. – 1:15 p.m.      **Lunch and Keynote Speaker (0.75 Hour MCLE)**

Justice Martin J. Jenkins, Judicial Appointments Secretary for Governor Gavin Newsom, will provide a presentation reflecting on his legal career in the public sector. He will also discuss the importance of diversity and the role it plays in the law and society today.

**Speaker:** Justice Martin J. Jenkins, Judicial Appointments Secretary for Governor Gavin Newsom

1:30 p.m. – 2:30 p.m.      **(Concurrent Sessions)**

## 4 The Interactive Process and Reasonable Accommodations: The Essentials and Nuances (1.00 Hour MCLE)

Panelists will analyze the handling of a request for reasonable accommodation in the public sector workplace from the perspective of the employer, the employee, and the mediator. The discussion will cover the interactive process, employer's decision, anticipated litigation, dispute resolution, and trial.

**Moderator:** Jorge Aguilar II, California Department of Justice

**Speakers:** Barbara Lawless, Lawless & Lawless  
Melissa Kiniyalocts, Santa Clara County Counsel's Office  
Phyllis W. Cheng, ADR Services, Inc.

## 5 Diversity: from Hiring to Firing (1.00 Hour Recognition and Elimination of Bias)

Diversity is in the news but what can you do to bring it into your workplace? Recognizing implicit bias is only half the battle. Learn tangible ways to overcome bias in hiring and upward mobility, as well as how to foster a culturally cooperative environment that won't end in countless lawsuits.

**Moderator:** Katherine Thomson, Arbitrator, Mediator, Factfinder

**Speakers:** Prof. Joan Williams, Center for WorkLife Law, UC Hastings  
College of the Law  
Shondella Reed, University of California, Office of the  
General Counsel  
Dale Brodsky, Beeson Tayer & Bodine

2:45 p.m. – 4:00 p.m.

## 6 Administrative Hearings: The ALJ Perspective (1.25 Hours MCLE)

Administrative hearings are a ubiquitous part of public sector legal practice, but their rules and procedures are very different from civil litigation. Three State administrative law judges share their views on effective case preparation and presentation and discuss pitfalls to avoid before and during the hearing.



**Moderator:** Marie Nakamura, Dannis Woliver Kelley  
**Speakers:** Dee Brown, Administrative Law Judge, Office of Administrative Hearings  
Shawn Cloughesy, Chief Administrative Law Judge, Public Employment Relations Board  
Dian Vorters, Presiding Administrative Law Judge, Office of Administrative Hearings

4:15 p.m. – 5:15 p.m. (Concurrent Sessions)

**7 Workplace Violence Prevention in the Age of the 'Active Shooter' (1.00 Hour MCLE)**

Join an engaging discussion focusing on workplace violence issues including what policies and practices should employers have in place to increase awareness, recognition and reporting of actual or potential incidents of workplace violence. The panel will discuss being able to identify some warning signs of workplace violence and how to assess the risk and deploy measures that are proportionate to the threat, including using outside consultants as part of the threat assessment process.

**Speakers:** Dr. Gerald Sweet, William James College  
Adam J. Fiss, Littler Mendelson P.C.

**8 Issues in Free Speech / Political Speech in the Public Sector Workplace in an Election Year (1.00 Hour MCLE)**

This panel will discuss the free speech rights of California public employees, with an emphasis on whistleblower rights under California statutes and post-Garcetti case law. In addition, we will explore the boundaries of political speech in the workplace. What counts as "political"? Do different workplaces confer a different scope of protected speech? When does speech become so disruptive that it loses its protection? 2020 will be an interesting year, with strong and conflicting opinions bound to be expressed by employees, which adds an urgency for attorneys to be prepared to counsel their clients on their legal rights and obligations in these contentious times.

**Moderator:** Arlene Prater, Best, Best & Krieger LLP

**Speakers:** Shilpi Agarwal, ACLU Foundation of Northern California  
Priscilla Winslow, Former Board Member of PERB and former Assistant Chief Counsel of the California Teachers Association

5:30 p.m. – 6:30 p.m. Opening Night Reception

## 37TH LABOR AND EMPLOYMENT LAW SECTION ANNUAL MEETING

8:00 a.m. – 5:30 p.m. Registration Open

8:00 a.m. – 9:00 a.m. Light Continental Breakfast Available

8:45 a.m. – 10:30 a.m.

**9 Employment Law Year in Review (1.75 Hours MCLE)**

In this fast-paced presentation, Anthony J. Oncidi and Ramit Mizrahi will cover the top employment law cases from the past year, with an emphasis on the cases of greatest utility to employment law practitioners.

**Speakers:** Ramit Mizrahi, Mizrahi Law, APC  
Anthony J. Oncidi, Proskauer Rose LLP

10:45 a.m. – 11:45 a.m. (Concurrent Sessions)

**10 Annual Round-Up of NLRB Cases (1.00 Hour MCLE)**

The National Labor Relations Board (NLRB) under the Trump Administration has continued to overturn precedent and apply its decisions retroactively, including in the areas of the duty to bargain, appropriate bargaining units, union access rights, and has noticed rule-making on joint employment, what constitutes protected speech within the context of a labor dispute, whether to exempt college/university students from the Act, and representation rules. The panel of experts will provide a lively discussion on these changes and the impact it has on their union and employer clients.

**Moderator:** Christy J. Kwon, Regional Attorney, National Labor Relations Board, Region 32

**Speakers:** Susan Garea, Beeson, Tayer & Bodine, APC  
Marina C. Gruber, Morgan, Lewis & Bockius LLP

## 11 Common Evidentiary Issues in Discrimination Litigation (1.00 Hour MCLE)

Our panel of expert employment litigators and a sitting Superior Court Judge will discuss the most pesky and re-occurring evidentiary issues that arise during discrimination cases including: “Me Too” evidence, the discovery and admissibility of social media posts & electronic communications (including text messages, telephone calls, and the contents of hard-drives), the scope of defense mental examinations, right-to-privacy limitations on discovery, and whether questions about immigration status are ever permissible.

**Moderator:** The Honorable Brad Seligman, California Superior Court, County of Alameda

**Speakers:** Erin Pulaski, Rudy Exelrod, Zieff & Lowe, LLP  
Dipanwita Deb Amar, Arnold & Porter Kaye Scholer LLP

### 12:00 p.m. – 1:15 p.m. Keynote Speaker and Lunch (1.00 Hour Recognition and Elimination of Bias)

Farhana Khera, Executive Director of Muslim Advocates, will discuss working on the frontlines of today’s civil rights movement, including her efforts to use legal tools such as high-impact lawsuits and legislative reforms to increase diversity and inclusion at the workplace for Americans of all faiths.

**Speaker:** Farhana Khera, President and Executive Director of Muslim Advocates

### 1:30 p.m. – 2:30 p.m. (Concurrent Sessions)

## 12 Modern Strategies for Competent Lawyers (1.00 Hour Competence Issues)

Understand the factors that contribute to high rates of stress, anxiety and depression in our profession. This panel will identify wellness resources and practical tools to help successfully manage a law practice. The speakers include the former director of the State Bar of California’s Lawyer Assistance Program and a lawyer, author and productivity consultant who created a system for lawyers to take care of themselves first.

**Speakers:** Richard Carlton, Coping Skills for Legal Professionals  
Ritu Goswamy, Legal Productivity Solutions, LLC

## 13 Work and Weed: What Lawyers Need to Know about Cannabis in the Workplace (1.00 Hour MCLE)

This panel will explore three primary topics: (1) current laws regulating marijuana, including what exactly California legalized, the current state of federal law and enforcement, (2) the use of medical marijuana and cannabis products by employees in California and in other states and best practices for workplace policies, and (3) employment issues that arise in the cannabis industry. Included in this discussion will be a brief discussion of the Federal legalization of hemp and the impact that has had on the workplace.

**Moderator:** Jonathan Judge, Atkinson, Andelson, Loya, Ruud & Romo P.C.

**Speakers:** Esra Hudson, Manatt, Phelps & Phillips, LLP  
Danielle Lucido, Engineers and Scientists of California, IFPTE Local 20, AFL-CIO & CLC

### 2:45 p.m. – 3:45 p.m. (Concurrent Sessions)

## 14 Hot Topics in Wage and Hour Law: 2019 Developments and What You Need to Know (1.00 Hour MCLE)

This year marked significant developments in wage and hour law both in the legislature and judiciary. Expert practitioners will discuss some of those developments including arbitrating wage and hour cases and the effect of AB 51 which prohibits retaliation for the refusal to sign an arbitration agreement; discrete issues in litigating and settling PAGA cases; the impact of the *de minimis* ruling articulated by the Cal. Supreme Court in *Troester v. Starbucks Corp.*; the gig economy, worker classification, and AB5; and new DOL regulations and opinion letters.

**Moderator:** Gay Grunfeld, Rosen Bien Galvan & Grunfeld LLP

**Speakers:** Laura Ho, Goldstein, Borgen, Dardarian & Ho  
Joan Tucker Fife, Winston & Strawn LLP

## 15 Artificial Intelligence—Shaping the Future of Work (1.00 Hour MCLE)

Advanced technologies are at the forefront of nearly every major industry and thought leaders worldwide are discussing their impact on our enterprises and workforces. Join top executives and leaders from some of the world’s leading organizations for an opportunity to hear panel discussions regarding: (1) the ethical and potential labor challenges of Artificial Intelligence and robotics in the workplace; (2) the impact of technology on employees, jobs and society; and (3) practical steps to prepare for the evolution of technology advancements and to prepare for the future of work.



**Moderator:** Maribel Hernandez, Maxim Integrated  
**Speakers:** Natalie Pierce, Littler Mendelson P.C.  
Michael Cole, Gusto  
Jaimi Kerr, LinkedIn Corporation  
Doug Bloch, Teamsters Joint Council 7

4:00 p.m. – 5:30 p.m.

16

**The Good, the Bad and the Ugly: Effective (and Not So Effective)  
Cross-Examination (1.50 Hours MCLE)**

Cross examination is a goldmine that must be mined early. Seasoned litigators know the key to an effective cross is thorough preparation. In this panel, two experienced trial attorneys will provide a detailed discussion of pre-trial preparation and trial examination from both the plaintiff and defense perspective. Drawing on real and hypothetical examples, the session will teach practitioners how to prepare for deposition and trial (and the added benefits for use at mediation), and provide useful tips and tools such as phrasing of questions, strategic planning, and the benefits and best use of videotaped testimony. Learn what wins and loses cases, and factors that influence juries.

**Moderator:** Deborah Maddux, Van Dermyden Maddux Law Corporation

**Speakers:** J. Bernard Alexander, III, Alexander Krakow Glick LLP  
Janine Simerly, Cozen O'Connor



## GENERAL INFORMATION

### CONFERENCE INFORMATION

Conference materials will be available online prior to the Conference and provided on a USB at the Conference. **Wi-Fi will not be available inside the conference rooms.**

**PRINTED MATERIALS WILL NOT BE PROVIDED.** Should you prefer to reference printed materials during the conference, please feel free to access the online information and print out the materials prior to the conference.

### CANCELLATIONS/REFUND POLICY

Cancellations and requests for refunds must be received in writing no later than Thursday, April 16, 2020 and are subject to a \$25 service charge. Refunds will not be available after Thursday, April 16, 2020.

### QUESTIONS

For registration information please call 916-516-1757. Telephone registrations will not be accepted. For program content and/or Section information please call 916-516-1748.

### SPECIAL ASSISTANCE

For special assistance please call 916-516-1748.

### ONSITE

Onsite registration will be on a space available basis. Call to confirm space availability.

### PHOTO AND VIDEO RELEASE

This event may be recorded. By attending this event, you consent to be photographed, filmed, and/or otherwise recorded, and to any use, by the CLA, of your likeness, voice, and name in any and all media, including social media. If you do not want your name or photo to be used, please let us know in advance. We cannot, however, honor requests to opt out of the use of your image or voice if you choose to ask a question during one of the event sessions.

### SCHOLARSHIPS

The Labor and Employment Law Section of the California Lawyers Association is committed to encouraging the representation of persons of color, women, the LGBTQ community, people with disabilities, other underrepresented groups and those who work in the area of public service.

As such, the Labor and Employment Law Section has committed to provide a full scholarship to those persons who have traditionally been underrepresented in our field in order to become familiar with the Labor and Employment Law Section and to encourage their membership and association.

Obtain an application on the Labor and Employment Law Section webpage. Scholarships only cover registration fees and not travel expenses. Applications are due by April 3, 2020 to Jinny Kim (jkim@legallaidatwork.org).

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April 23 – 24, 2020 | Oakland Marriott City Center | 1001 Broadway, Oakland, CA 94607

## REGISTRATION FORM

**NOTE:** One registrant per form. Photocopies may be used.

Bar Number: \_\_\_\_\_  
Name: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Firm Address: \_\_\_\_\_  
City, State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

### Emergency Contact Information

Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Program package includes 13.75 hours of MCLE, 1.00 Hour Competence Issues, 2.00 Hours Recognition and Elimination of Bias, program materials, continental breakfast and lunch.

☐ Check here if you do not want your information released.

### PRE-REGISTRATION FEES (check the appropriate box)

#### FULL CONFERENCE:

- ☐ \$495 Labor and Employment Section Members
- ☐ \$590 Non-Section Member (Includes enrollment in the Labor and Employment Section)

#### 1-DAY CONFERENCE:

- Thursday, April 23—Public Sector Conference
- ☐ \$295—Labor and Employment Section Members
  - ☐ \$390—Non-Section Member

Friday, April 24—Section Annual Meeting

- ☐ \$295—Labor and Employment Section Members
- ☐ \$390—Non-Section Member

\*\*Onsite registration fees increase by \$50.

#### TICKETED EVENTS:

- ☐ 17. \$25 Thursday, April 23—Public Sector Conference Lunch
- ☐ 18. FREE Thursday, April 23—Networking Reception
- ☐ 19. \$25 Friday, April 24—Annual Meeting Lunch

Amount enclosed or to be charged \$ \_\_\_\_\_

## REGISTRATION INFORMATION

### DEADLINE:

In order to pre-register, your form and check, payable to the **California Lawyers Association**, or credit card information, must be received no later than Thursday, April 16, 2020.

### REGISTER ONLINE:

CALAWYERS.ORG/LABOR-AND-EMPLOYMENT-LAW

### MAIL TO:

Program Registrations  
California Lawyers Association  
400 Capitol Mall, Suite 650  
Sacramento, CA 95814

### CREDIT CARD INFORMATION (VISA/MASTERCARD ONLY)

I authorize California Lawyers Association to charge my program registration to my VISA/MasterCard account. (No other credit card will be accepted.)

Account Number: \_\_\_\_\_

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Cardholder's Name: \_\_\_\_\_

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**PLEASE INCLUDE THE COURSE SELECTOR WITH YOUR REGISTRATION FORM, IF YOU ARE MAILING.**

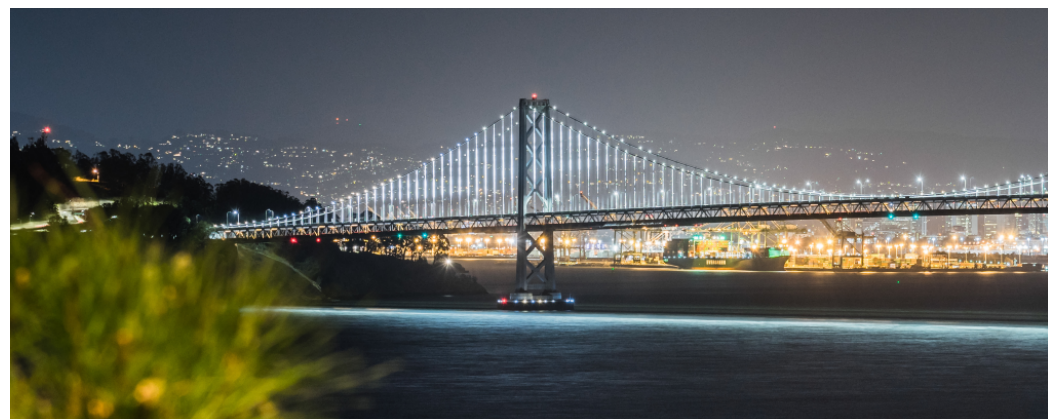
### MCLE:

The California Lawyers Association is an approved State Bar of California MCLE provider.

## LABOR AND EMPLOYMENT SECTION'S MENTORSHIP PROGRAM

I am interested in participating in the Labor and Employment Section's Mentorship Program

- ☐ As a mentor ☐ As a mentee



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37TH LABOR AND EMPLOYMENT LAW SECTION ANNUAL MEETING**  
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## COURSE SELECTOR

NAME: \_\_\_\_\_ BAR NUMBER: \_\_\_\_\_ Please include Course Selector with your registration form, if you are mailing.

### THURSDAY, APRIL 23, 2020 – PUBLIC SECTOR CONFERENCE

#### 9:00 a.m. – 10:00 a.m. (Concurrent Sessions)

- ☐ **1** The Many Meanings of “Due Process” in Workplace Investigations
- ☐ **2** PERB 101: An Overview of the Process, Recent Changes, and Upcoming Trends

#### 10:15 a.m. – 11:45 a.m.

- ☐ **3** In One Year and Out the Other: Year in Review

#### 1:30 p.m. – 2:30 p.m. (Concurrent Sessions)

- ☐ **4** The Interactive Process and Reasonable Accommodations: The Essentials and Nuances
- ☐ **5** Diversity: from Hiring to Firing

#### 2:45 p.m. – 4:00 p.m.

- ☐ **6** Administrative Hearings: The ALJ Perspective

#### 4:15 p.m. – 5:15 p.m. (Concurrent Sessions)

- ☐ **7** Workplace Violence Prevention in the Age of the ‘Active Shooter’
- ☐ **8** Issues in Free Speech / Political Speech in the Public Sector Workplace in an Election Year

### FRIDAY, APRIL 24, 2020 – LABOR AND EMPLOYMENT SECTION ANNUAL MEETING

#### 8:45 a.m. – 10:30 a.m.

- ☐ **9** Employment Law Year in Review

#### 10:45 a.m. – 11:45 a.m. (Concurrent Sessions)

- ☐ **10** Annual Round-Up of NLRB Cases
- ☐ **11** Common Evidentiary Issues in Discrimination Litigation

#### 1:30 p.m. – 2:30 p.m. (Concurrent Sessions)

- ☐ **12** Modern Strategies for Competent Lawyers
- ☐ **13** Work and Weed: What Lawyers Need to Know about Cannabis in the Workplace

#### 2:45 p.m. – 3:45 p.m. (Concurrent Sessions)

- ☐ **14** Hot Topics in Wage and Hour Law: 2019 Developments and What You Need to Know
- ☐ **15** Artificial Intelligence—Shaping the Future of Work

#### 4:00 p.m. – 5:30 p.m.

- ☐ **16** The Good, the Bad and the Ugly: Effective (and Not So Effective) Cross-Examination





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**Vice-Chair:** Nicole Heeder

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Christina Ro-Connolly  
Erich Shiners  
Janet Cory Sommer  
Katherine Thomson

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