

CALPELRA Labor Relations Academy

CLRM Certification Paper Orientation AGENDA

September 20, 2018; 12:00 p.m.

Call 866-939-8416

Enter Participant Code 2581766

- Attendance Verification
- Written Project Overview
- Research Regarding Hearing Conduct – Review Sample Questions
- Analyze Neutral Factfinder’s Performance and Decision
 - Factfinding decision analysis
- Summarize Your Findings
- Writing Tips
- Neutral Factfinder Assignment

Questions

Contact CALPELRA’s Executive Office (calpelra@calpelra.org) regarding any substantive questions or research problems. The Chief Executive Officer or someone designated by the Chief Executive Officer will contact you via e-mail or phone to discuss your questions with you.

Labor Relations Academy Master (CLRM) Certification Paper Guidelines

To earn your CALPELRA CLRM certification, you must submit a written analysis of factfinding.¹

These papers, when accepted as meeting CALPELRA's CLRM standards, will help create a resource exclusively for CALPELRA members who want in-depth analysis about California-based arbitrators and neutral factfinders.

OVERVIEW

After completing the required three core Labor Relations Academy programs, the basic steps for earning your CLRM certification are:

1. Participate in an orientation to learn how to find California factfinding decisions and factfinders.
2. Accept an assigned California neutral factfinder from CALPELRA's CEO or the CEO's designee.
3. Conduct your research and analysis on the assigned neutral factfinder(s).
4. Submit a final draft of your paper for approval. This stage may involve several revisions or instructions to rewrite, edit, or complete additional research and/or analysis.

REQUIREMENTS

A. Participate In Orientation

Sign up for one of the orientations posted on CALPELRA's web site. During the orientation, you will learn how to find neutral factfinders' decisions. During the orientation, you may obtain information about how to write your paper

¹ Under very limited circumstances, and solely with the written approval of CALPELRA's Chief Executive Officer, some individuals may be permitted to submit a paper on an arbitrator in a grievance arbitration matter.

using professionally accepted sentence structure and grammar. And you may ask questions about the paper requirements and CALPELRA's expectations.

B. Conduct Research

Step 1: You will be assigned a California-Based Neutral Factfinder (“Neutral”) With The Required Reported Decisions

Note:

- Factfinding awards are available on PERB's web site.
- Appropriate decisions for this project are limited to factfinding.
- If possible, the neutrals should be based within your agency's general geographical area.

Step 2: Research Regarding Hearing Conduct

- Contact the agency involved in a factfinding case. Ask questions of agency representatives, including: (1) How the neutral conducted the hearing; (2) the order of union and agency strikes for the neutral's selection; (3) the agency's overall analysis of the neutral's objectivity under the circumstances; (4) whether a transcript was made or post-hearing briefs were submitted (ask for copies if available); and (5) any important information other agencies should know about the neutral. This information will help you as you complete your analysis. Please inform the agency and/or union that the information they provide will not be published by you or CALPELRA.

Step 3: Analyze The Neutral's Performance

Analyze the neutral's performance in writing, using the format CALPELRA has provided and the information you have collected in response to the questions outlined below, under Factfinding Decision Analysis.

Step 4: Summarize Your Findings

As the final step of your written analysis, draft a Summary Of Analysis And Related Information, including the following information:

- A single paragraph summary of your analysis of the neutral.
- For the public agency and the union that used the neutral, list:
 - The order of strike used to select the arbitrator, or the history of the strike; and

- Whether the neutral was objective under the circumstances.
- Any other relevant data obtained from the union or agency.

FACTFINDING DECISION ANALYSIS

Draft your paper by responding to the questions listed below. Discuss the quality of the neutral's decision-making, regardless whether management won or lost the dispute.

A. Neutral's Characteristics

1. Controlling The Hearing

- a. Did the neutral control the hearing? Did the neutral permit one or more party or representative to exert excessive control over others or the hearing?
- b. Did the neutral permit one party to waste time with long breaks, caucus discussions, and tangential issues?
- c. Did the neutral run an informal or formal hearing? Describe the best and worst aspect about how the neutral controlled the hearing.

2. Tendency To Mediate Instead Of Decide

- a. Did the neutral attempt to mediate the dispute without express approval?
- b. Did the neutral attempt to avoid writing a decision?
- c. Did the neutral provide a comprehensive written analysis applying the evidence to established statutory factfinding standards?
- d. Did the neutral provide only recommendations without analyzing and weighing the evidence and data presented by the parties?

3. Objectivity And Fairness

Did the neutral factfinder appear to be objective and fair? Discuss evidence of bias or tendency to favor one party or the other.

4. Data Obtained From Other Agencies' Experience With The Neutral

- a. Explain whether the agency would select the neutral again. Why or why not?
- b. What was the order of strike by union and management to select the neutral from the list of factfinders?
- c. Analyze any other data or comments the agency had about the neutral.

B. List Of Issues On Which The Factfinding Panel Made Recommendations

Provide a list of the issues upon which the factfinding panel made recommendations.

C. Deciding An Ability-To-Pay Argument

(Factfinding, Government Code Section 3505.4 for MMBA, or other relevant statute for EERA or HEERA)

1. Did the neutral consider “the interests and welfare of the public and the financial ability of the public agency” as required by the statute? If so, your analysis should include the following:
 - a. What did both parties assert about the agency’s ability-to-pay?
 - b. Did the agency assert there were competing non-compensation expenditures that should be considered as part of the agency’s ability-to-pay wages? How did the neutral handle these competing interests?
 - c. Did the neutral consider the agency’s long-term financial plan or did the neutral consider only a limited number of budget years?
 - d. Describe the neutral’s ruling and rationale on ability-to-pay issues.

D. Application Of Total Compensation And Comparability Issues

1. Were there disputes over which agencies and benchmark positions should be included as comparators? How were the differences resolved?
2. Were there disputes over which compensation elements should be included in total compensation? How were the differences resolved?

3. Were there disputes over the appropriate target for the agency (e.g., mean, median, top 30%)? How were the differences resolved? Was weight given to being at, below, or above the target for comparable agencies?
4. How did the neutral weigh total compensation comparability against the ability-to-pay or the increase in the CPI?
5. Describe the neutral's ruling and rationale on comparability issues.

E. Consumer Price Index Issues

1. Did the neutral limit evidence to a direct comparison of Consumer Price Index (CPI) to just salary increases (COLA), or did the neutral consider evidence of the employer's increased payments for health, pension, and salary in comparison to the CPI?
2. How many years of CPI data did the neutral view as appropriate for use (e.g., 2 years, 5 years, 7 years, 10 years)? What was the neutral's rationale for number of years of CPI data?
3. How did the neutral rule or weigh the increase in the CPI against ability-to-pay, comparability, or settlement pattern?

F. Internal Comparability And Settlement Pattern

1. Did the neutral take into consideration how the agency's position or settlement pattern with the agency's other bargaining units compare with the issues in this factfinding? If so, describe.
2. Did the neutral take into consideration how other employee groups of the same agency ranked in terms of total compensation as compared with the bargaining unit employees engaged in factfinding? If so, describe how the neutral resolved the matter.

G. Other Factfinding Or Interest Arbitration Criteria

Using the factfinding criteria (other than CPI, comparability, ability-to-pay) from the appropriate statute, describe how the neutral ruled on or *applied other criteria*. Describe how well the neutral's written analysis demonstrated application of all relevant factfinding criteria.

H. Special Substantive Issues Other Than Compensation

Describe any key issues, other than compensation items, that were decided by the neutral. Discuss the basic arguments and how the neutral resolved the matters.

I. Data Obtained From Other Agencies' Experience With The Neutral

1. Explain whether the agency would select the neutral again. Why or why not?
2. What was the order of strike by union and management to select the neutral from the list of factfinders?
3. Analyze any other data or comments the agency had about the neutral.

WRITING TIPS

You may be a seasoned writer, or you may break out in a sweat when you're faced with a writing task. Writing well doesn't require you to show off an impressive vocabulary. It simply means that you explain things in a clear and understandable way. And the ability to write well can be a real career booster.

1. Remember that your writing reflects you, your education, your experience and skill level, and your degree of professionalism, whether you have a high school diploma or a doctorate.
2. Your goal is to write with *clarity, simplicity, and brevity*.
3. To write the best paper, follow the following suggestions:
 - a. Do all the necessary research in order to provide the analysis required by the **CLRM Certification Paper Guidelines**. Make sure you obtain all the information necessary to respond to the specific questions outlined in the Guidelines.
 - b. Draft a detailed outline of your paper, following the steps in the **Guidelines**. If you are uncertain about your analysis or whether a topic should be addressed, please contact the individual assigned to assist you with your project, *before you begin writing*.
 - c. Don't copy large amounts of information and commentary from each decision. You'll attach the decisions to your final paper.
 - d. In addition to the specific questions outlined in the **Guidelines**:
 - Call attention to any errors, biases, or tendencies you detect in the arbitrator's written decisions.
 - Determine whether the facts as applied by the arbitrator in reaching a decision make sense to you.

- e. After you complete a first draft of your paper, put it aside for a day or two. Then read it through again to correct any errors or unclear statements. Submit your paper when it reflects your best effort.

RECOMMENDED WRITING RESOURCES

HBR Guide to Better Business Writing

Bryan A. Garner

Harvard Business Review Press

On Writing Well

The Classic Guide to Writing Nonfiction

William Zinsser

Harper Collins

Elements of Style

William Strunk, Jr. and E. B. White

Pearson Longman

WordRake

<http://www.wordrake.com/>