

# LIEBERT CASSIDY WHITMORE

EMPLOYMENT LAW | LABOR RELATIONS | EDUCATION LAW | MANAGEMENT TRAINING

## Firm Resume

A PROFESSIONAL LAW CORPORATION

---

6033 West Century Blvd.  
Suite 500  
Los Angeles, CA 90045  
tel: 310.981.2000  
fax: 310.337.0837

5701 North West Ave.  
Fresno, CA 93711  
tel: 559.256.7800  
fax: 559.449.4535

153 Townsend St.  
Suite 520  
San Francisco, CA 94107  
tel: 415.512.3000  
fax: 415.856.0306

[www.lcwlegal.com](http://www.lcwlegal.com)

*With offices in Los Angeles, Fresno and San Francisco, Liebert Cassidy Whitmore provides services for a majority of cities, counties and community colleges, as well as a substantial number of school districts, in California. The Firm is a full service employment and labor relations law firm providing expert consultation, representation, litigation, negotiation and investigation services to public agency management. In addition, the Firm produces a wide-range of dynamic management training workshops and seminars on employment and labor relations issues to cities, counties, courts, special districts, schools, community college districts, and state universities. The Firm also provides services for community college districts, school districts, and private schools in business, construction, and facilities issues, both transactional and litigation.*

## **Negotiation Services**

Members of Liebert Cassidy Whitmore have successfully negotiated thousands of labor agreements for cities, counties, special districts and school and college districts. The agreements negotiated on behalf of these and other public employers, depending upon the particular philosophy and circumstances of a given agency, have run the gamut from brief understandings limited to benefit items to comprehensive labor agreements that define substantially all terms of employment. These comprehensive MOU's and collective bargaining agreements, through management rights, waivers and "zipper" type clauses, provide protection to management's ability to manage the agency. Members of the Firm are experienced in collaborative/interest based bargaining techniques as well as the more traditional labor negotiations approach.

In addition to conducting negotiations for public employers, we continually work with public agencies that employ staff personnel to do their own negotiations. This arrangement has involved all aspects of consultation and related services, including writing initial bargaining proposals, reviewing counter-proposals, providing training and advice concerning negotiating strategies, and giving general advice when particular problems arise.

### ***Negotiating Impasses***

Services provided by members of the Firm have included direct participation, as well as general consultation in hundreds of mediation, fact-finding and arbitration proceedings.

### ***Strikes***

We have worked with many public sector clients in contingency planning for job actions and in assisting them in strike-related activities. A Firm partner co-authored the "Management Strike Handbook," published by the International Personnel Management Association.

### ***Contract Administration and Grievance Handling***

The Firm has extensive experience in the area of grievance administration, ranging from giving advice at the administrative levels of the grievance process through litigating arbitration cases.

### ***Public Employment Relations Board Representation***

Members of the Firm have had many years of experience representing our clients in all phases of PERB proceedings, from consultation and responses to Unfair Labor Practice claims through PERB hearings and court appeals. A Firm partner served as counsel to the PERB Board's first Chairperson as well as serving as a PERB Administrative Law Judge. Another Firm partner served as a representative of the League of California Cities and the California Association of Counties in the legislative and

administrative proceedings in connection with the PERB assuming jurisdiction over local agency employment relations.

## **Our Approach to Negotiations**

- We work with and for the chief administrative official and his/her designated staff, and through him/her with the Governing Body. We provide professional advice to assist the agency in determining its policy goals and objectives, which then become our goals and objectives; we see our job as applying our best efforts and skills to achieving them.
- We believe in carefully organizing for negotiations, with goals and objectives kept well in mind. The negotiating process, we believe, consists of definable stages, from preparatory activities to the preliminary bargaining phases, “hard bargaining,” and finally to agreement, impasse procedure, or work action. Each stage of the process requires an organized approach in order to maximize the chances of attaining bargaining objectives.
- Our philosophy is not one of “union busting,” but rather one of using a professional approach that seeks to achieve and maintain professional relationships, notwithstanding the adversarial aspects of the process.
- We call to the attention of our clients that in return for agreeing to competitive benefit adjustments, it is reasonable for them to seek to contractually protect and maximize their management discretion to set standards of service and retain the prerogative to direct, assign, and stimulate employees to meet them.
- We see the conclusion of negotiations as the beginning for establishing a constructive employer-employee organization-employee relations structure, which requires management training and ongoing involvement with agency management on our part.
- While one member of the Firm handles a particular negotiating unit, at least one other designated attorney will be kept advised so that at all times the client has access to an attorney who is familiar with the status of the situation in each bargaining unit.

## **Local Agency Employment Law Services**

We have worked closely with city attorneys, county counsels and general counsels, and have directly handled the representation for our local agency clients in literally hundreds of legal proceedings before civil service and personnel boards, arbitrators, the Public Employment Relations Board (PERB), state and federal EEO and other administrative agencies and the courts. These proceedings have covered the full spectrum of employer-employee relations matters, including such matters as civil service appeals, recognition and unit representation matters, unfair labor practice charges and related negotiating issues, employment discrimination matters, pension and disability issues, wrongful termination and Fair Labor Standards Act claims.

## **Litigation Services**

Liebert Cassidy Whitmore attorneys strive to prevent employment disputes before they arise through

education, training, audits, advice, planning, and cooperative employer-employee relations. When employment disputes do arise, our defense efforts are designed to meet each client's particular needs, goals, and budget.

We specialize in representing public agencies in the defense of legal actions and enjoy the reputation of a results-oriented, successful litigation firm. We are experts in all phases of litigation in both federal and state courts: pleading, discovery, motion practice, alternative dispute resolution, settlement and trial.

Our particular expertise is the defense of public agencies in actions brought by employees, former employees, applicants or other individuals alleging employment related claims such as violations of the California Fair Employment and Housing Act; Federal Civil Rights Acts (*e.g.*, section 1981 and 1983 claims); Americans with Disabilities Act; Age Discrimination in Employment Act; Fair Labor Standards Act; Meyers-Milias-Brown Act; Family and Medical Care Leave Acts; wrongful termination; and violation of state and/or federal constitutional rights such as due process, First Amendment and privacy rights.

The firm's attorneys have handled a number of cases that have culminated in jury trials resulting in defense verdicts. These cases included claims for violation of constitutional rights; violation of the Age Discrimination in Employment Act; violation of the disability provisions contained in the Fair Employment and Housing Act; reverse discrimination; sex discrimination; sexual harassment; national origin discrimination; age discrimination; intentional infliction of emotional distress; violation of public policy; First Amendment and retaliation claims under both state and federal laws.

## **Audit Services**

By virtue of the public agency background of members of the Firm, we have extensive experience in developing local agency Employer-Employee Relations Resolutions/Ordinances and personnel policies and procedures. A Firm partner developed the League of California Cities Sample Employer-Employee Relations and Personnel Policies and Procedures Ordinances. The Firm does extensive work in reviewing agency civil service/personnel policies and rules to assure continuing consistency with the ever-changing dictates of EEO and affirmative action, labor relations and other laws and administrative regulations.

Members of the Firm conduct comprehensive audits for public agencies regarding their compliance with the Fair Labor Standards Act (FLSA). Additionally, the Firm publishes a comprehensive guide, "Fair Labor Standards Act: A Public Sector Compliance Guide," that serves as a reference to agencies across the country.

To learn more about the FLSA Audits, log onto [www.FLSAaudit.com](http://www.FLSAaudit.com) where you can find detailed information about what an FLSA audit entails.

## **Investigations Practice Group**

The Firm's Investigation Practice Group specializes in investigating allegations of discrimination, harassment and other misconduct. Our investigative practice primarily serves private sector employers and public sector agencies that are not already firm clients. However, we also represent current clients on a case-by-case basis depending upon the specific facts and allegations at issue.

Because of confidentiality issues, we do not identify those employers for whom we have conducted

outside investigations. We have conducted investigations for organizations in the hospitality, legal and trade industries as well as public sector agencies.

We continue to publish articles and present workshops on the topic of investigations. Our workshops identify the key components of a successful investigation including how and when to begin an investigation, who should conduct the investigation, how to maintain confidentiality, how to organize and execute an effective investigation, and how to evaluate the facts and take corrective action once the investigation is completed.

## **Retirement Practice**

The firm provides advice and counsel to public agencies regarding the laws and regulations of public employee retirement plans, including PERS, the County 1937 Retirement Act, and local agency retirement laws, as well as on retiree health insurance issues. The firm defends public agencies that are sued regarding retirement issues, defends public agencies and their employees and retired employees in retirement in cases where PERS acts to reduce benefits, and represents public agencies in disability and industrial disability retirement appeals. The firm helps agencies defend against PERS and other retirement board audits and, where necessary, files administrative appeals to challenge any negative audit findings.

Members of the firm advise on all issues related to PERS, 1937 Act and STRS benefits. For example, we provide advice and counsel to clients regarding retirement formulas, the rules on reportable compensation, PERS and 37 Act contract amendments, disability retirement procedures and obligations, service credit, GASB issues, unfunded liabilities, retiree health benefits, vested rights and elected official benefits.

Retirement issues have major impacts on agency labor relations. The firm provides strategy and guidance during negotiations in regards to retirement benefits, including acting as chief negotiator. We review agency policies and collective bargaining agreements/memoranda of understanding to ensure that they comply with applicable law.

We represent agencies in retirement related administrative appeals and litigation, and have assisted agencies defend claims of underfunding as well as fiduciary obligations.

## **Law Enforcement Representation**

On a daily basis, the Firm provides advice, counsel and representation to police chiefs, sheriffs, and their respective executives in a variety of issues that impact professional law enforcement administrators. A number of Firm attorneys have had the privilege of representing law enforcement professionals for thirty or more years. Having proudly earned the trust and respect of several generations of police chiefs, the Firm accommodates the emergency nature of law enforcement related employee relations by being readily accessible to assist in addressing issues of administrative leave, administrative/criminal investigations, and investigative methodology and strategic planning. With its immense law enforcement related experience, the Firm brings both legal acumen and practical knowledge to its client interactions. Finally, the Firm may well be unique in the state, in having a senior partner who has not only represented law enforcement for approximately thirty years, but who had fifteen years of experience in representing police associations. This unique insiders knowledge is invaluable in effectively addressing issues confronting management. The Firm is extremely well situated to become

your daily counsel regarding these sensitive matters.

## **Internal Affairs Investigations**

Our attorneys are experts in the Public Safety Officers Procedural Bill of Rights and are always available to provide timely advice to your internal affairs investigators. We routinely review investigations in order to assess the strengths and weaknesses of investigations and any discipline which may result.

Our lawyers have obtained important appellate court victories including the following recent cases: *Upland Police Officers Association v. City of Upland* (2003) 111 Cal.App.4th 1294; *Gilbert v. Sunnyvale* (2005) 130 Cal.App.4th 1264; and *Steinert v. Covina* (2006) 146 Cal.App.4th 458.

We continue to publish articles and present workshops on the topic of internal affairs investigations. Our workshops identify the key components of a successful investigation including how and when to begin an investigation, who should conduct the investigation, how to maintain confidentiality, how to organize and execute an effective investigation, and how to evaluate the facts and take corrective action once the investigation is completed.

## **Pitchess Motions**

Peace officer personnel records are confidential as a matter of law. Our Firm understands the importance of protecting the confidentiality of personnel records, and our lawyers are highly skilled at opposing Pitchess Motions in both civil and criminal cases. We ensure that personnel records are safeguarded to the fullest extent possible under the law.

## **Disciplinary Hearings**

Every disciplinary case is serious, but those which occur in the law enforcement context are not only serious but also complicated by the special protections afforded to peace officers by laws including the Public Safety Officers Procedural Bill of Rights Act. Our lawyers have successfully handled hundreds of disciplinary cases over the years.

## **Education Law Practice**

*Liebert Cassidy Whitmore provides general counsel, labor and litigation advice and assistance to a variety of educational institutions in all aspects of education law, employment law and labor relations. Members of the Firm have first-hand experience and in-depth understanding of the special demands of labor relations and employment law as they apply to educational institutions. Known throughout the state for the breadth and depth of our expertise in representing independent, private and religious schools, California public schools and school districts, county offices of education and community college districts, our direct experience includes:*

## **Labor Relations and Personnel**

PERB proceedings (representation cases, unfair practice cases, impasse determination and other matters)

Contract administration (including advice on grievances, handling of arbitrations, contract interpretation)

Layoff of certificated/academic and classified employees

- Discipline of certificated/academic and classified employees
- Review and drafting of personnel procedures and policies
- Employee fringe benefits issues (e.g., FMLA, STRS, PERS, COBRA)
- Wage and hour issues (e.g., FLSA)
- Specially funded employees
- Employment discrimination/civil rights
- Harassment investigations
- Administrative hearings before hearing officers, arbitrators and personnel commissions

## **School and College Administration**

- Budget and finance
- Audits and auditors
- Conflicts of interest
- Voting rights/responsibilities
- Brown Act

## **Business and Facilities**

- Construction contracts and litigation
- Contracts and purchasing agreements, and related litigation
- Competitive bidding and contract award
- Real property (acquisition, sale, lease, Education Code requirements)
- Intergovernmental agreements
- Foundations and auxiliary organizations

## **Student Affairs**

- Student discipline (including harassment)
- Civil Rights (e.g., Title IX)
- First Amendment/freedom of expression issues
- Instructional/legal issues
- Student permits/attendance
- Bilingual education

## ***Model Policy and Procedures***

Liebert Cassidy Whitmore has partnered with the Community College League of California, to provide a Board Policy and Administrative Procedure Service. The Service is designed to assist districts maintain up-to-date Board Policy and Administrative Procedure manuals, by offering sample policies and checklists for procedures that implement board policies that are either legally required, legally advised, or suggested as good practice. The Service also provides workshops and regular updates reflecting changes in laws, regulations, and other standards.

## **Consulting and Training Services**

One of the Firm's greatest sources of accomplishment comes from its record of success in counseling and advising its clients on the best ways to avoid becoming a party to adversary proceedings. We were "pioneers" in the training field by creating "consortiums" of agencies. The thirty-three Employment Relations Consortiums (ERCs) are comprised of over 500 cities, counties, special districts, schools, and community college districts as well as other public sector agencies.

As part of our ERC services, we provide ongoing training on current developments in labor relations and personnel law on subjects including negotiation strategies; performance evaluations; disciplinary actions; employment discrimination, including harassment and ADA issues; Family and Medical Care Leave Acts; violence in the workplace; effective supervision; grievance administration; law enforcement issues and special workshops for governing board members. Experience over the years confirms that not only have the member agencies found the consulting and training services helpful, but an invaluable opportunity for the exchange of ideas and information between agency management.

The Firm provides individual training services to public agencies on a half-day or full-day basis. We customize these training programs to the precise needs of the client. For example, we have provided on-site training programs to employees and/or supervisors and managers of over one hundred agencies last year.

Members of the Firm make presentations on employment relations law issues to a variety of professional organizations including:

<i>Association of California Community College Administrators</i>	<i>California State Association of Counties</i>
<i>Association of California School Administrators</i>	<i>California State Sheriffs Association</i>
<i>Association of California Water Agencies</i>	<i>College and University Professionals Association for Human Resources</i>
<i>Association of Chief Human Resources Officers for Community College Districts</i>	<i>Community College League of California</i>
<i>California Association of Joint Powers Authorities</i>	<i>County Personnel Administrators Association of California</i>
<i>California Background Investigators Association</i>	<i>Fire Districts Association of California</i>
<i>California Charter Schools Association</i>	<i>International Municipal Lawyers Association</i>
<i>California Council of School Attorneys</i>	<i>International Personnel Management Association</i>
<i>California County Counsels Association</i>	<i>League of California Cities</i>
<i>California Fire Chiefs Association</i>	<i>National Association of Housing and Redevelopment Officials</i>
<i>California Municipal Finance Officers</i>	<i>National Employment Law Institute</i>
<i>California Peace Officers Association</i>	<i>National Public Employer Labor Relations Association</i>
<i>California Peace Officers Standards and Training (POST) Academy</i>	<i>Public Agency Risk Management Association</i>
<i>California Police Chiefs Association</i>	<i>Public Agency Safety Management Association</i>
<i>California Public Employer Labor Relations Association</i>	<i>Public Risk Management Association</i>
<i>California Sanitation Risk Management Authority</i>	<i>Southern California Labor Relations Council</i>
<i>California School Boards Association</i>	<i>Southern California Personnel Management Association</i>
<i>California Society of Municipal Finance Officers</i>	