

VERMONT LABOR RELATIONS BOARD
RESPONSE TO SUNSET COMMISSION QUESTIONNAIRE

1. In general, how often does the board and commission meet? Provide specific information on how often the board or commission has met in the past two fiscal years. Provide information on where agendas and minutes of meetings can be found.

The entire board meets for a full board meeting once every three months. (The last meeting of FY 2022 was postponed to August due in part to COVID and a vacation).

FY21: Four Times

September 14, 2020
January 6th, 2021
April 8, 2021
May 13, 2021

FY22: Three Times

October 7, 2021
January 6, 2022
April 7, 2022

FY23

August 18, 2022

The board divides into panels of three to hear Grievances, Unfair Labor Practices, and to adjudicate other issues within the jurisdiction of the VLRB. The Board holds evidentiary hearings throughout the year. Attached is the current hearing calendar.

2. Provide the names of members of the board or commission, their term length and expiration, their appointing authority, and the amount of any per diem they receive.

Board Information

Name	Orig. Appt. Date	Term Length	Expiration	Appt. Auth.	Per Diem
David Boulanger	10/1/18	5 years, 8 months	6/30/24	Gov. Scott	\$125/day
Roger Donegan	5/5/22	4 years, 1 month	6/30/26	Gov. Scott	\$125/day
Robert Greemore	9/12/16	5 years, 9 months	6/30/22	Gov. Shumlin	\$175/day-Hearing Chair
Richard Park	9/1/19	5 years, 9 months	6/30/25	Gov. Scott	\$175/day-Hearing Chair
Karen Saudek	5/5/22	5 years, 1 month	6/30/27	Gov. Scott	\$125/day
Alan Willard	1/1/19	5 years, 5 months	June 30, 2024	Gov. Scott	\$125/day

3. Provide an overview of the board or commission's purpose.

The Vermont Labor Relations Board ("VLRB" "Board") strives to promote and maintain harmonious and productive labor relations in Vermont. The Board is charged with resolving labor relations disputes under the State Employees Labor Relations Act, Municipal Employee Relations Act, Labor Relations for Teachers Act, State Labor Relations Act, Judiciary Employees Labor Relations Act, Independent Direct Support Providers Labor Relations Act, and Early Care and Education Providers Labor Relations Act. See generally 3 V.S.A. §901, et seq.; 16 V.S.A. §1981, et seq.; 21 V.S.A. §1501 et seq.; 21 V.S.A. §1721 et seq.; 3 V.S.A. §1010, et seq.; 21 V.S.A §1631, et seq.; 33 V.S.A. §3601 et seq.

The Board determines appropriate bargaining units, conducts representation elections, and adjudicates unfair labor practice charges in cases involving relations between employers

(State of Vermont, Vermont State Colleges, University of Vermont, municipal employers, school districts, and small private employers) and their employees. In addition, with respect to the State, State Colleges and UVM, the Board makes final determinations on employee grievances, and aids in resolving disputes. There are other statutory provisions granting the Board jurisdiction to resolve disputes in various areas. The Board also provides educational seminars to labor and management professionals as well as labor and employment attorneys. The Board through its Executive Director also publishes a treatise on the Evolving Vermont Labor Relations Law.

4. Is that purpose still needed? What would happen if the board or commission no longer fulfilled that purpose?

Yes, the purpose of the Board is still valid, vital, and needed. The Board is still needed, and the purpose for which it was formed is still valid. The labor relations statutes provide a method for establishing collective bargaining, resolving disputes, and protecting against unfair labor practices. Without the Board, and the services it provides, labor relations in the state could be negatively impacted. The Board provides a forum for the resolution of disputes and provides predictable rules and resolution processes relied on by both labor and management. The work of the Board influences private employers who rely on the cases and labor relations precedent established by the Board when managing employees. Consistent and predictable rules and a forum for resolution of disputes provides security for both labor and management. Vermont's economic development is dependent on a stable and secure workforce. Without the Board, the workforce challenges the state faces might be exacerbated because workers will feel less secure in their jobs and will be less likely stay and grow their families in Vermont. Absent a secure labor force and predictable labor relations, employers may be similarly less secure and less likely or able to continue to grow or maintain their operations in Vermont.

So far, approximately 50 cases have been filed this year involving Grievances, Petitions for Election of Exclusive Bargaining Representative (Union creation), and Unfair Labor Practices.

5. How well is the board or commission performing in executing that purpose? What evidence can you provide to substantiate that performance?

The Board continues to succeed in the performance of its duties. The last two Annual Reports are attached. The following excerpts from the 2021 Annual Report, outlines the type and volume of matters handled by the Board.

CASELOAD PROGRESS

The number of cases filed with the Board was below average in 2021. In 2021, 50 cases were opened or reopened, compared to the annual average of 58 cases over the past ten years. The Board closed 43 cases during the year, below the annual average of 57.6 cases. There were 23 cases open at the end of 2021, the annual average of 22 open cases.

The following table indicates how the 43 cases were closed:

How Cases Were Closed	Number of Cases
Board decision	10
Settlement or withdrawal of case	19
Certification of union as representative	13
Order decertifying union as representative	1
Order appointing mediator	3

The number of hearing/meeting days for the Board was below average in 2021. The number of hearing/meeting days held in 2021 was 12 days, slightly below the annual average of 13 days. The Board heard 8 cases, in line with the annual average of 8.6 cases. The average length of hearing time per case was 1.5 days, above the annual average of 1.36 days, primarily resulting from multi-day hearings for grievances appealing dismissals from employment.

The following depicts the Board's historical experience over the past five years with respect to cases filed, cases closed, Board hearing days and cases heard:

Performance Measures	2017	2018	2019	2020	2021
<i>Cases Filed</i>	60	54	52	63	50
<i>Cases Closed</i>	57	49	64	62	44
<i>Percentage of Cases Closed by Settlement or Withdrawal</i>	56	59	52	54	43
<i>Cases Open at End of Year</i>	26	31	19	20	24
<i>Board Hearing Days</i>	18	13	13	19	12
<i>Cases Heard</i>	6	13	10	9	8
<i>Average Days Between Case Filing and Case Closing</i>	167	170	194	181	148

There have been a high number of case settlements and withdrawals during the past several years. The Board places emphasis on attempting to informally resolve cases and narrow issues in dispute. Prior to the pandemic, the Board accomplished this through use of informal meetings and conference calls. In 2020, necessitated by the pandemic, the Board shifted to the Microsoft Teams platform. In addition, the Board has allowed the parties time to attempt to resolve these disputes informally by extending the discovery and hearing schedule. These efforts have resulted in an increase in the informal resolution of cases.

In 2021, 43 % of cases were closed by settlement or withdrawal. The Board will continue efforts to encourage parties to informally resolve their disputes and explore methods to interact with parties in a time-efficient and economical way.

AREAS OF BOARD JURISDICTION

The Board has specific jurisdiction to resolve grievances, unfair labor practice charges, unit determination/representation cases and miscellaneous cases. The following table depicts the Board's historical experience over the past five years with respect to the number of cases filed in these various categories:

	2017	2018	2019	2020	2021
Grievances	31	27	22	34	22
Unfair Labor Practices	9	16	12	12	8
Unit Determination / Representation	17	8	16	13	16
Miscellaneous	3	3	2	4	4

The following represents the number of cases filed in the various dockets to date in calendar year 2022:

Grievances	21
Unfair Labor Practices	11
Unit Determination / Representation	9
Miscellaneous	5

6. If the purpose is still needed, can State government be more effective and efficient if the purpose was executed in a different manner?

The Board deals with labor issues. Vermonters are fortunate to have a Labor Board comprised of members with a wealth of experience in management, labor, and employment issues generally. It is important for the Board to represent the working people and management that come before it. The Board members, however, are all retired. A factor that might contribute to exclusively retired people serving on the Board is the limited per diem. A working person would find it challenging to serve on the Board. The per diem for a Board member is only \$125 per day, approximately minimum wage for an eight-hour day.

The Board members must attend hearings, review legal briefs, deliberate on complex factual and legal issues impacting the lives of Vermonters, and yet their remuneration is comparable to or even less than an employee at a fast-food restaurant. Consequently, we have been unable to recruit Board members that are still working Vermonters. Ensuring Board members are better compensated for their time may encourage working Vermonters with diverse backgrounds to participate on the Board.

7. If the purpose is still needed, do any of your board or commission's functions overlap or duplicate those of another State board or commission or federal or State agency? If so, is your board or commission still the best entity to fulfill the purpose?

The jurisdiction of the Board does not overlap with the duties or functions of other State or federal board, commission, or agency.

8. Does the board or commission's enabling law continue to correctly reflect the purpose and activities of the board or commission?

Yes. See generally, 3 V.S.A. §901, et seq.; 16 V.S.A. §1981, et seq.; 21 V.S.A. §1501 et seq.; 21 V.S.A. §1721 et seq.; 3 V.S.A. §1010, et seq.; 21 V.S.A. §1631, et seq.; 33 V.S.A. §3601 et seq.

9. Provide a list of the board and commission's last fiscal year expenditures including staffing costs. How are these funded?

See attached.

The Board is funded by general funds. There is a small self-funded source for publications. The Board charges for publications, but the cost of creating the publication absorbs the fees received for the publication.

10. Is the board or commission required by law to prepare any reports or studies for the Legislature, the Governor, or any State agency or officer? If so, have those reports or studies been produced? Does the board or commission have ongoing reporting obligations?

The Board provides an Annual Report, see the 2022 Annual Report attached.

Respectfully submitted, this 9th day of September, 2022.

Judith L. Dillon, Esq.

Executive Director