

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



COALITION OF UNIVERSITY EMPLOYEES,

Charging Party,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA (IRVINE),

Respondent.

Case No. SF-CE-924-H

PERB Decision No. 2255-H

April 25, 2012

Appearances: Beeson, Tayer & Bodine by Jason Rabinowitz and John E. Varga, Attorneys, for Coalition of University Employees; Renne, Sloan, Holtzman & Sakai by Timothy G. Yeung and Erich W. Shiners, Attorneys, for Regents of the University of California (Irvine).

Before Martinez, Chair; Dowdin Calvillo and Huguenin, Members.¹

DECISION

DOWDIN CALVILLO: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Coalition of University Employees (CUE) and cross-exceptions filed by the Regents of the University of California (Irvine) (UCI) to a proposed decision of an administrative law judge (ALJ). The complaint and underlying unfair practice charge alleged that UCI violated the Higher Education Employer-Employee Relations Act (HEERA)² by unilaterally implementing a policy requiring bargaining unit employees at UCI Medical Center to either wear a surgical mask while at work or demonstrate that they had received an inoculation for the H1N1 flu virus, and to wear insignia indicating whether they had been immunized, without having afforded CUE an opportunity to meet and confer over the decision to implement the change in policy and/or the effects of the change in policy and

¹ Chair Martinez did not participate in this decision.

² HEERA is codified at Government Code section 3560 et seq.

without having exhausted statutory impasse procedures. After a formal hearing, on May 6, 2011, the ALJ issued a proposed decision finding that UCI did not commit an unlawful unilateral change and dismissing the complaint and underlying unfair practice charge. Both CUE and UCI filed exceptions to the ALJ's proposed decision.³

By letter dated April 3, 2012, CUE notified the Board that it wished to withdraw the charge in this matter with prejudice, pursuant to a global settlement agreement between the parties.

The Board has the discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (PERB Reg. 32320, subd. (a)(2) ["The Board itself may . . . take such other action as it considers proper."]; *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S; *Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380; *Oakland Unified School District* (1988) PERB Order No. Ad-171; *ABC Unified School District* (1991) PERB Decision No. 831b.)

Based on our review of CUE's letter and the entire record in this matter, the Board finds withdrawal of the unfair practice charge to be in the best interests of the parties and consistent with the purposes of HEERA. Accordingly, the Board grants CUE's request to withdraw the charge with prejudice.

ORDER

The request by the Coalition of University Employees to withdraw the unfair practice charge with prejudice in Case No. SF-CE-956-H is hereby GRANTED.

Member Huguenin joined in this Decision.

³ PERB Regulation 32305 provides: "Unless a party files a timely statement of exceptions to the proposed decision, the decision shall become final on the date specified therein." (PERB regs. are codified at Cal. Code Regs., tit. 8, sec. 31001, et seq.)