

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
Complainant,) Case No. LA-PN-38
)
v.) PERB Decision No. 335
)
LOS ANGELES UNIFIED SCHOOL DISTRICT,) August 18, 1983
)
Respondent.)
_____)

Appearances: Howard O. Watts representing himself.
Before Gluck, Chairperson; Jaeger and Morgenstern, Members.

DECISION

MORGENSTERN, Member: This case is before the Public Employment Relations Board (PERB or Board) based on an appeal by Howard O. Watts to the Los Angeles regional director's dismissal without leave to amend of certain portions of a public notice complaint. The regional director determined that four parts of the complaint concerned alleged violations of the Los Angeles Unified School District's (District) own administrative regulations and were thus beyond PERB's jurisdiction.

In his appeal of the dismissal of portions of his public notice complaint, Watts outlined what he perceived to be relevant background to the instant case. According to Watts, settlement of a prior charge prompted the District in October

1981 to issue local public notice complaint resolution procedures. The District has failed to comply with these rules, and Watts asks PERB to enforce the District's local policies.

In his appeal of the dismissal of his public notice complaint, Watts alleges that the District has failed to resolve the issues and has subverted the local complaint process. Citing to section 6 of the public notice complaint form, which asks complainants about local District procedures, Watts asks that PERB enforce the District's policy.

DISCUSSION

Allegation No. 2 of the original complaint charged that, contrary to Administrative Regulation Bulletin No. 18, section V-B, the District failed to send Watts, as a member of the Sunshine Committee, a copy of the negotiation summary.¹

¹The text of the local policy rule provides:

The Sunshine Committee shall receive certificated negotiation summaries prepared by the Public Information Office and have access to any written material distributed at negotiations by the District or the certificated exclusive representative. Said summaries shall be sent to all Sunshine Committee members within 24-48 hours of each negotiation session and will identify any and all written material distributed at the session. The Sunshine Committee chairperson shall receive copies of all written material distributed at certificated

Allegation No. 3 charged that the District failed to comply with the local policy's requirement that the Sunshine Committee chairman be provided with copies of all written materials distributed at negotiation sessions.

In Allegation No. 4 of the original charge, Watts claims that the District contravened local policy section VI-A-1 which requires public inspection of all initial and subsequent new proposals on the day following presentation of the proposals.²

Allegation No. 5 refers to local policy section III-C which requires the District to use its best efforts to insure that initial proposals are presented to the public before 8:00 p.m.

negotiations with the negotiations summary. When feasible all Sunshine Committee members shall receive written material distributed at certificated negotiations. The Sunshine Committee shall report to the Personnel and Schools Committee once a month or as needed. The Sunshine Committee also may make periodic reports to the Board of Education.

²The local rule provides:

The Public Information Unit and the Office of Staff Relations shall maintain a file of all initial and subsequent new proposals, each of which shall be available for public inspection during regular working hours on the day following presentation. The Staff Relations Office will respond to questions of the public on collective bargaining issues.

during regular meetings of the Board of Education.³ Watts claims that this provision is out of date because board meetings start at 3:00 or 3:30 p.m. rather than 4:00 p.m. He urges revision of the policy to require that all initial amended and new proposals be presented to the public before 5:00 p.m.

The question before the Board is whether the dismissal was appropriate because the allegations included in Watts' complaint fail to establish a prima facie case.

We conclude that the regional director erred when she dismissed Watts' complaint based specifically on the fact that he alleged violations of the District's own public notice rules. In Los Angeles Community College District (4/29/81) PERB Decision No. 150a, the Board examined Watts' complaint that the District's rule limiting speakers to five-minute presentations at the school board meetings was unlawful. And see Los Angeles Unified School District (12/30/80) PERB Decision No. 152. Whether or not the complaint asserts violation of local rules is not determinative. In such cases,

³The local rule provides:

The District will use its best efforts to insure that its initial proposals are presented to the public before 8:00 p.m. during regular meetings of its Board of Education. The public shall thereafter have an opportunity to express its views on such proposals.

the Board must determine whether the statutory public notice provisions have been violated. If the locally adopted rules facially conflict with a public notice requirement, the Board will necessarily intercede. Where the application of local rules results in deprivation of statutory rights, we will likewise entertain the complaint. In this case, the alleged violations involve District public notice requirements beyond those minimumly mandated by the Educational Employment Relations Act (EERA or Act). For example, the Sunshine Committee and the information furnished thereto are creations of local policy and not statutorily required.

None of the dismissed allegations assert violations of specific EERA provisions nor do Watts' allegations include sufficient factual information from which we can find that application of the local rule resulted in harm.

Thus, while the Board is required to assume that the essential factual allegations are true when reviewing the dismissal of this complaint (San Juan Unified School District (3/10/77) EERB Decision No. 12⁴), broadly worded allegations that the District violated the statutory requirements are insufficient; specific facts must be alleged to support the

⁴Prior to January 1, 1978, PERB was known as the Educational Employment Relations Board.

issuance of a complaint. Mountain View School District
(5/17/77) EERB Decision No. 17. We find none here.

ORDER

Therefore, based on the rationale expressed above, we AFFIRM
the dismissal of Watts' complaint without leave to amend.

Chairperson Gluck and Member Jaeger joined in this Decision.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3470 Wilshire Blvd., Suite 1001
Los Angeles, California 90010
(213) 736-3127



November 10, 1981

Mr. Howard O. Watts
1021 N. Mariposa Avenue, Apt. 3 1/2
Los Angeles, CA 90029

Mr. William J. Sharp
Los Angeles Unified School District
450 North Grand Avenue
Los Angeles, CA 90012

Mrs. Judy Solkovits
United Teachers of Los Angeles
2511 West Third Street
Los Angeles, CA 90012

Re: LA-PN-38
Dismissal in Part Without Leave to Amend

Dear Interested Parties:

The above referenced complaint was received in this office on September 15, 1981. A dismissal in part without leave to amend is herewith issued by the Regional Director pursuant to PERB Regulation 37030(e).

Pursuant to PERB Regulation 37030(e) certain portions of Public Notice Complaint LA-PN-38 against the Los Angeles Unified School District and the United Teachers of Los Angeles are hereby dismissed as follows:

- (1) Allegations No. 2 and No. 3 are dismissed in their entirety.
- (2) Allegations No. 4 and No. 5 are dismissed in their entirety.

Discussion

- (1) Allegations (2) and (3)

The complaint alleges that the District violated its own Administrative Regulations by failing to provide the District's Sunshine Committee members with certificated employee negotiations proposals within 24-48 hours.

Furthermore, the complaint alleges that the District failed to provide the Chairman of the Sunshine Committee with copies of the Exclusive Representative's and the District's contract proposals. Since these alleged violations relate to the Los Angeles Unified School District's Administrative Regulations, PERB does not have jurisdiction. Allegations (2) and (3) are therefore dismissed without leave to amend.

(2) Allegations (4) and (5)

The complaint alleges that the District violated its own Administrative Regulations by failing to make new proposals available for public inspection during regular working hours on the day following presentation. Also, the complaint alleges that the District's Administrative Regulation Section 3C pertaining to proposals being presented to the Board before 8:00 p.m., is out of date. Since these alleged violations relate to the District's Administrative Regulations, as do allegations (2) and (3), this agency does not have jurisdiction. Allegations (4) and (5) are therefore dismissed without leave to amend.

The Regional Director has determined that the following portions of the complaint state a prima facie violation of Government Code section 3547(d):

Allegations (1) and (6): The contention that the District and the Teachers Association negotiated new bargaining proposals without making them public within 24 hours.

Accordingly, this portion only of the complaint will be processed further.

Pursuant to PERB Regulation 37050, Respondents are required to file an answer to only allegations (1) and (6) of the complaint indicated above. The answer must be received by this office not later than November 25, 1981. Enclosed for Respondents are copies of the initial complaint filed on September 15, 1981.

Complainant may appeal this dismissal in part without leave to amend to the Board itself at the headquarters office in accordance with the provisions of Division 1, Chapter 4, Article 2 of the PERB Regulations. Any appeal must be filed within 10 calendar days

November 10, 1981
Dismissal in Part Without Leave to Amend
LA-PN-38
Page 3

following the date of service of this letter, i.e. on or before
November 20, 1981. Please contact this office if you have any
questions.

Very truly yours,

Frances A. Kreiling
Regional Director

FAK:bw

Enclosures