

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,

Complainant,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. LA-PN-36

PERB Decision No. 408

September 17, 1984

HOWARD O. WATTS,

Complainant,

v.

LOS ANGELES COMMUNITY COLLEGE
DISTRICT,

Respondent.

Case Nos. LA-PN-25
LA-PN-35
LA-PN-37

Appearances; Howard O. Watts, representing himself.

Before Hesse, Chairperson; Morgenstern and Burt, Members.

DECISION

HESSE, Chairperson: Howard Watts, complainant, filed a request for an extension of time in four cases simultaneously on December 22, 1981. The request was denied as to all four cases and, on January 4, 1982, he brought these appeals to the Public Employment Relations Board (Board or PERB).

PROCEDURAL HISTORY

LA-PN-25: In this case, the complainant requested an extension of time in which to reply to the response by the

Los Angeles Community College District (LACCD) to Watts' request for reconsideration of Los Angeles Community College District (11/30/81) PERB Decision No. 150b. The request to extend time was denied for failure to state good cause, and this appeal followed. Acting upon complainant's initial request to reconsider, however, PERB rendered Decision No. 150c on the merits, holding that the complainant had failed to demonstrate the "necessary extraordinary circumstances" that would warrant reconsideration.

IA-PN-35: Complainant filed a public notice complaint alleging violations of subsections 3547(a), (b) and (d) of the Educational Employment Relations Act (EERA).¹ The regional

1The EERA is codified at Government Code section 3540 et seq. All references herein are to the Government Code unless otherwise indicated. Section 3547 reads in relevant part:

(a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

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(d) New subjects of meeting and negotiating arising after the presentation of initial

director determined that these allegations failed to state a prima facie case, and thus he dismissed the charge without leave to amend. After PERB subsequently affirmed this dismissal in Los Angeles Community College District (12/15/81) PERB Decision No. 186, complainant sought an extension of time in order to file a request for reconsideration of this decision with the Board. His request for an extension of time was denied for failure to state good cause as required by PERB regulation 32132, and this appeal followed.

LA-PN-36; This charge, alleging violation of section 3547, was dismissed on the regional director's determination that it failed to state a prima facie case and could not be amended to do so. The Board affirmed the regional director's decision in Los Angeles Unified School District (12/15/81) PERB Decision No. 187. Again complainant sought an extension of time in order to submit a request for reconsideration, but the request for an extension was denied for failure to state good cause. This refusal to extend time is under appeal.

LA-PN-37; By timely appeal, complainant sought to set aside the hearing officer's dismissal of his charge for failure to state a prima facie case. He then sought an extension

proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

of time in order to reply to the LACCD response to his appeal. This request was denied and he appeals the denial. In the meantime, the Board affirmed the hearing officer's dismissal of the charge in Los Angeles Community College District (8/15/83) PERB Decision Nos. 330 and 331.

DISCUSSION

In both LA-PN-25 and LA-PN-37, complainant requested an extension of time in order to file a reply to the responding party's response to his request for reconsideration and his appeal of the dismissal of his charge, respectively. PERB regulations² do not specifically permit a complainant to submit a reply brief. Therefore, those timelines associated with PERB's other filings are inapposite. For this reason, the Board's executive assistant inappropriately denied these requests for time extensions since he based his denial on Watts' failure to demonstrate that good cause warranted such extensions. Nonetheless, we find no prejudicial error was committed.

Since the submission of such replies is neither expressly permitted nor precluded, it would appear that the acceptance of such filings is discretionary with the Board. Where the response raises new issues, discusses new case law or

²PERB regulations are codified at California Administrative Code, title 8, section 31001 et seq.

formulates new defenses to allegations, the Board might well be persuaded to permit the complainant to submit a reply in order to aid the Board in its review of the underlying dispute. In neither of these cases, however, did the complainant's request to submit a reply suggest that any such factors justified the submission of a reply. Indeed, complainant's requests dealt only with a desire for an extension of time and advanced no reasons why a brief should be accepted. For this reason, we affirm the determination below to the extent that it correctly declined to permit Watts to submit reply briefs.

In LA-PN-35 and 36, the issue is somewhat different. In those cases, the requests for reconsideration were never considered because they were not received. When it became apparent to Watts that he would miss the filing deadline to request reconsideration, he sought an extension of time under PERB regulation 321323 in which to file the request.

Complainant's mailgram request for an extension of time in these cases was not clear.⁴ The only statement that could

3pERB rule 32132 states in pertinent part:

Extensions of time may be granted . . . for good cause only.

⁴Reasons constituting "good cause" for an extension of time must be filed pursuant to PERB rule 32132. In this case, the short, ambiguous mailgram requesting the extension of time was timely filed. However, the longer letter, which explained the details and was sent nearly two weeks after the filing deadline, was not timely filed and is not considered in arriving at this decision.

arguably constitute "good cause" for his request was the reference to "no opportunity to get the position of the parties." If complainant were referring to the position of the parties on the requests for reconsideration, his inability to obtain that information is not "good cause" because such information is neither referred to nor required by the regulations. If, as seems more likely,⁵ Watts is referring to the position of the parties on the extension of time, it still does not constitute "good cause."

Not only is that information not required by the regulations, but it does not in any way relate to the underlying documents complainant wished to file late, the requests for reconsideration. Absent a statement of "good cause," complainant's request for extensions of time in these cases was properly denied.

ORDER

For the foregoing reasons, Howard O. Watts' appeal to the Public Employment Relations Board of the denial of an extension of time in PN-25, 35, 36 and 37 is hereby DENIED.

Members Morgenstern and Burt joined in this Decision.

⁵Regulation 32132 requires "the request shall indicate the reason for the request and, if known, the position of each other party regarding the extension." (Emphasis added.)