

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-73
) LA-PN-78
 v.)
) PERB Decision No. 455
 LOS ANGELES COMMUNITY COLLEGE DISTRICT,)
) December 7, 1984
 Respondent.)
)
 _____)

Appearances: Howard O. Watts, on his own behalf; Carmen D. Hawkins, Attorney for Los Angeles Community College District.

Before Hesse, Chairperson; Jaeger and Morgenstern, Members.*

DECISION

This case is before the Public Employment Relations Board (Board) on an appeal by Howard O. Watts of the Board agent's dismissal, attached hereto, of his public notice complaint alleging that the Los Angeles Community College District (District) violated section 3547(a), (b), and (c) of the Educational Employment Relations Act (Government Code section 3540 et seq.).

We have reviewed the Board agent's dismissal in light of the Complainant's appeal and the entire record in this matter and adopt that dismissal as the decision of the Board itself.

In addition, for the reasons set forth in Los Angeles Unified School District and California State University (8/16/84) PERB Decision No. 396-H, we affirm the Board agent's

*Members Tovar and Burt did not participate in this Decision.

denial of Watts' request for assistance made pursuant to California Administrative Code, title 8, section 32163. In so finding, we reject the Complainant's motion to the deny the District the right to brief the Board concerning the request for assistance issue. The District, as a party to this case, is entitled to comment on any issue related to the complaint, including the Complainant's request for assistance and the Board agent's response to that request.

Finally, we deny the Complainant's request for oral argument.

ORDER

The public notice complaints in Case Nos. LA-PN-73 and LA-PN-78 are DISMISSED WITHOUT LEAVE TO AMEND.

By the BOARD

PUBLIC EMPLOYMENT RELATIONS BOARD

LOS ANGELES REGIONAL OFFICE
3470 WILSHIRE BLVD., SUITE 1001
LOS ANGELES, CALIFORNIA 90010
(213) 736-3127



July 5, 1984

Howard O. Watts

Re: NOTICE OF DISMISSAL
LA-PN-73 and LA-PN-78 Watts v. Los Angeles Community
College District

Dear Mr. Watts:

Your above-captioned public notice complaints were filed with our office on March 26, 1984 and April 20, 1984 respectively. Complaint LA-PN-73, alleges that the Los Angeles Community College District (LACCD) violated Government Code sections 3547(a)(b) and (c) by engaging in the following conduct: (1) at the Board of Trustees meeting of March 7, 1984 the Board agenda provided for public response time to the District's initial proposal for the salary and fringe reopener of the certificated unit (represented by Local 1521 AFT College Guild) and additionally the agenda placed that proposal as an action item to send to the negotiating table that same day, thus "streamlining" the public notice process and violating EERA and District policy; (2) the District initially informed the public of the certificated unit's salary and fringe reopener proposal on February 8, 1984 and that on February 22, 1984 the District informed the public of its own proposal, but that at no meeting prior to March 7, 1984 when the Board intended to act on its proposal had the District provided the public with response time to the exclusive representative's proposal. Your statement of facts supporting the complaint continues by stating that the LACCD did not take action on its own proposal on March 7, 1984, but rather delayed until a future meeting any action on its reopener proposal. You indicate that you used five minutes to respond to the District proposal on the reopener at the March 7, 1984 meeting.

Your allegations in LA-PN-78 follow chronologically the progress of the salary and fringe reopener proposals of LACCD and AFT Local 1511. (In that sense it is more akin to an amendment rather than a separate complaint.) It alleges that the District presented the alternate proposals and arranged for public response time in an out of order fashion thus preventing the public from becoming informed.

And you allege once again that LACCD acted on its own proposal at the same meeting at which it heard public comment of the exclusive representative's proposal, (March 21, 1984). As you are well aware, Government Code sections 3547(a)(b) and (c) read as follows:

(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 meeting of the public school employer.

(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

Your statement of facts indicates that both APT and the District's proposals were presented at public meetings on February 8 and 22, 1984, thereby nullifying your allegation of a 3547(a) violation in LA-PN-73. According to your complaint, LACCD adopted its initial proposal on March 21, 1984. A month elapsed between the presentation and the adoption. (There is no allegation that meeting and negotiating occurred prior to the March 21, 1984 adoption.) I find that a month is clearly "a reasonable time", between submission and action. You indicate that you had the opportunity to respond to both parties' proposals at Board meetings in March, 1984 before any meeting and negotiating occurred. Based on all the facts you have provided, no violation of 3547(b) in either of your complaints can be found.

Finally, regarding your allegation of the 3547(c) violations, as I have already stated, you have affirmatively shown that you and the public had an opportunity to respond before the public school employer adopted its proposal on March 21, 1984. I find no violation of 3547(c) in either complaint.

June 5, 1984
LA-PN-73 and LA-PN-78
Page 3

You argue that LACCD failed to comply with 3547(a) (b) and (c) by presenting the proposals and allowing public response time in an out of order fashion. Section 3547 does not prescribe an order for the presentation of initial proposals other than requiring public response time prior to meeting and negotiating. The law does not specify that there should be five separate and distinct steps taken at five separate and distinct meetings of the public school employer in order to comply with public notice provisions. PERB Decision No. 335, Watts v. Los Angeles Unified School District, (August 18, 1983), indicates that the Board will not find violations of local rules regarding public notice requirements unlawful unless they "facially conflict" with EERA. The method used by LACCD in presenting and acting upon the initial proposal in this case may have varied from past practice, but no violation of 3547(a), (b) or (c) has been demonstrated. Therefore, because neither complaint states a prime facie violation of EERA section 3547 nor can they be amended to do so, they are hereby DISMISSED WITHOUT LEAVE TO AMEND.

Your request for assistance filed in LA-PN-73 is also dismissed. Any and all technical assistance was provided you when we reviewed your complaints in April, 1984. Technical assistance could not create a prima facie case where none existed. Board policy requires that only technical assistance be provided any party that requests it. (See Watts v. Los Angeles Community College District PERB Decision No. 186, (December 15, 1981), and Watts v. Los Angeles Unified School District and California School Employees Association, PERB Decision No. 181a, (February 22, 1982).

An appeal of this decision pursuant to PERB Regulation 32925 may be made within 20 calendar days following the date of service of this decision by filing an original and 5 copies a statement of the facts upon which the appeal is based with the Board itself at 1031 - 18th Street, Suite 200, Sacramento, California 95814. Copies of any appeal must be concurrently served upon all parties and the Los Angeles Regional Office. Proof of service pursuant to Regulation 32140 is required.

Sincerely,

Frances A. Kreiling
Regional Director

Roger Smith
Regional Representative

RS:bw

