

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-70
)
 v.) PERB Decision No. 485
)
 LOS ANGELES COMMUNITY COLLEGE)
 DISTRICT,) February 8, 1985
)
 Respondent.)
 _____)

Appearance: Howard O. Watts, on his own behalf.

Before Hesse, Chairperson; Morgenstern and Burt, Members.

DECISION

MORGENSTERN, Member: This case is before the Public Employment Relations Board (Board) on appeal of a dismissal without leave to amend of a public notice complaint filed by Howard O. Watts against the Los Angeles Community College District (District). Having fully considered the assertions contained in Watts' appeal,¹ we adopt the attached determination of the Board's Los Angeles regional director as the decision of the Board itself. Additionally, in accordance with Los Angeles Unified School District et al. (8/16/84) PERB Decision No. 396-H, we reject Watts' contention that he was denied assistance in filing this complaint.

¹In light of the Board's disposition of the instant case, it is unnecessary to entertain the District's petition for relief from late filing of its response to Watts' appeal.

ORDER

Upon the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that the public notice complaint against the Los Angeles Community College District in Case No. LA-PN-70 is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Chairperson Hesse and Member Burt joined in this Decision.

PUBLIC EMPLOYMENT RELATIONS BOARD

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



March 30, 1984

Howard O. Watts

Re: Notice of Dismissal
IA-PN-70, Watts v. Los Angeles Community College District

Dear Mr. Watts:

Your above-captioned public notice complaint was filed with our office on November 26, 1983. The complaint alleges that (1) the Los Angeles Community College District (LACCD) failed to adequately describe the bargaining proposal which was presented on October 26, 1983 and therefore you were not able to fully respond. It further alleges that (2) at the November 2, 1983 LACCD Board meeting you were not provided sufficient time in which to address the District's proposal. And finally, the complaint alleges that (3) LACCD failed to comply with its own policies regarding the posting of new subjects of bargaining. Specifically with regard to #3, you allege that meeting and negotiating occurred between LACCD and the Supervisory Employees Union, SEIU Local 99, and L.A. County Building and Trades Council prior to the expiration of the twenty-four hour posting period as required in Paragraph 2(a) of LACCD's September 3, 1980 public notice policy. You allege violations of 3547(a) (b) and (e) of the Act.

On January 11, 1984, a notice pursuant to PERB Regulation 32920 was issued to you outlining the deficiencies of the first two allegations of this complaint. The notice provided that any amendment to the complaint was required to be filed with this office by January 31, 1984. You chose not to file an actual amendment, but on January 26, 1984, you met with me to further discuss the issues raised by the complaint. At that time you provided me with Minutes of the October 26, 1983 and the November 2, 1983 LACCD Board of Trustees Meetings. This additional material fails to correct the deficiencies in the complaint. For the reasons stated below and in the January 11, 1984 notice, the first two allegations in the complaint do not state a prima facie violation of Government Code section 3547.

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Allegation #1

As I indicated to you in my January 11, 1984 letter, the PERB has already determined in Palo Alto Unified School District (12/2/81) PERB No. 184, that "... initial proposals presented to the public must be sufficiently developed to permit the public to comprehend them." The PERB found that the respondent had "sufficiently developed" for public comprehension a proposal on a cost of living adjustment by simply stating that its proposal was to be based on the Consumer Price Index. The complainant alleged that the proposal was not specific enough. The PERB found that because the respondent's proposal referred to a document available to the public, i.e., the Consumer Price Index, that the proposal had met the criteria of development.

Likewise in your case, LACCD presented a proposal on pending layoffs of classified employees and referred the public to Education Code section 88017. You stated that you received a copy of the October 26, 1983 scheduled agenda and a copy of the District's proposal regarding the effects of layoffs on approximately October 25, 1983. You further stated that you addressed the subject of the District's proposal in a five minute period at the October 26, 1983 Board of Trustees meeting and again at the November 2, 1983 meeting. It appears that you had adequate time to both prepare a response and to present that response to LACCD's proposal. Indeed, it appears that you had an understanding of what Education Code 88017 described and had even obtained a copy of the revelant section (which you provided as an exhibit to the instant complaint). No evidence was presented to demonstrate that you had difficulty comprehending LACCD's proposal.

Allegation #2

Your second allegation as to the amount of response time at the November 2, 1983 Board meeting was also addressed in my January 11, 1984 letter. After discussing the case with you during this investigation and reviewing the minutes from that meeting, which you provided, it is clear that you were granted

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two five minute periods for response. It appears, however, that you chose to spend part of your allotted response time for a discussion of unrelated procedural matters. In sum, you have alleged no facts which indicate inadequate time for meaningful input on the proposal. (See Los Angeles Community College District, 6/16/80 PERB Decision No. Ad-91.) On the contrary, the facts indicate that you failed to utilize the full time period allowed when offering your comments regarding the layoff proposal.

Allegation #3

Finally, as to your third allegation that IACCD violated its own internal public notice policy,¹ the PERB's responsibility is to determine whether or not violation of a statute it oversees has occurred. (See Los Angeles Unified School District (8/18/83) PERB Decision No. 335.) Government Code section 3547(d) requires that "[n]ew subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public with 24 hours." This investigation revealed the undisputed fact that IACCD properly "sunshined" the new subjects of meeting and negotiating pursuant to 3547(c) by posting the new subjects within 24 hours, as required. No violation can therefore be found here.

¹IACCD has a provision in its September 3, 1980 collective bargaining procedure, Article 2, New Subjects of Meeting and Negotiating which states:

"[N]o meeting and negotiating will take place on the subject until the item has been posted for a minimum of twenty-four hours."

This local policy is not based on a statutory requirement of the FEERA. It is noted that the IACCD does have a complaint procedure in paragraph 6 of its September 3, 1980 collective bargaining procedure which might be utilized to remedy your allegation.

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For the reasons stated above, none of the three allegations states a prima facie violation of EERA section 3547. Therefore, the complaint is hereby DISMISSED WITHOUT LEAVE TO AMEND.

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 of 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:gml

cc: Mary Dowell

PUBLIC EMPLOYMENT RELATIONS BOARD

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



March 1, 1984

Howard O. Watts

Re: Request for Assistance (Sec. 32163 PERB Regulations)
LA-PN-70, Los Angeles Community College District

Dear Mr. Watts:

Upon review of your request for assistance, I have found no cause to consider your request beyond the limits of what the PERB decided in your case LA-PN-35. (PERB Decision No. 186) I will provide the technical assistance needed for the proper filing and processing of this complaint but I will not interpret the law for you nor will I establish the prima facie case for you. It is a thin line between technical and legal assistance and I hope to monitor it very precisely. I will continue to provide any technical help I can in order to perfect your complaints. I will not give you legal opinion as to how to draft or amend you complaints.

Your request for anything other than technical assistance is denied.

An appeal of this decision pursuant to PERB Regulation 32360 may be made within 10 calendar days following the date of service of this decision by filing an original and 5 copies of a statement of the facts upon which the appeal is based with the Board itself at 1031 18th Street, Suite 200, Sacramento, California 95815. 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:gm1