

9 PERC ¶ 16091

LOS ANGELES COMMUNITY COLLEGE DISTRICT

California Public Employment Relations Board

Howard O. Watts, Complainant, v. Los Angeles Community College District, Respondent.

Docket No. LA-PN-79

Order No. 489

February 28, 1985

Before Tovar, Jaeger and Burt, Members

Public Notice Complaint -- Presentation Of Proposals -- Oral Clarification Of Proposals -- 07.51 Union's oral clarification of its salary proposal at two public meetings held by school district constituted sufficient notice to the public and satisfied requirements of EERA § 3547(a).

APPEARANCES:

Howard O. Watts, in his own behalf; Carmen D. Hawkins, Attorney for the Los Angeles Community College District.

DECISION AND ORDER

JAEGER, Member.

Howard O. Watts appeals the dismissal of his public notice complaint alleging that the Los Angeles Community College District violated section 3547(a) of the Educational Employment Relations Act¹ by placing on its public meeting agenda a nonspecific salary proposal submitted by Los Angeles City and County Employees Union, Local 99, Service Employees International Union, AFL-CIO, and by accepting the union's oral clarification of the proposal for the purposes of complying with the Act.

A regional representative of the Public Employment Relations Board dismissed the complaint, concluding that Local 99's oral clarification of the proposal at two public meetings held by the District constituted sufficient notice to the public and satisfied the requirement of section 3547(a).

The Board summarily affirms the attached ruling of the regional representative. The charge is DISMISSED.

Complainant's request for oral argument is DENIED. The Board finds the record is sufficiently clear to make oral argument unnecessary.

Members Tovar and Burt joined in this Decision.

¹ Codified at Government Code section 3540 et seq.

REGIONAL DIRECTOR'S DECISION

Your above-captioned public notice complaint was filed with our office on April 20, 1984. The complaint alleges that (1) the Los Angeles Community College District (LACCD) violated 3547(a) of the Act by not properly listing Los Angeles City and County School Employees Union, Local 99's (Local 99) initial proposal for the salary reopener for the 1983 fiscal year on the March 21, 1984 agenda of the Board of Trustees meeting and (2) the District violated 3547(b)

by changing Local 99's proposal on the April 4, 1984 Board's agenda thereby not allowing the public to speak to only one version of the proposal.

On June 15, 1984 we met to discuss this case among others. At that time, I indicated to you that pursuant to 32920(e) of the Regulations the complaint failed to state a prima facie violation of 3547 and could not be amended to do so. Your position was that despite the fact that a Local 99 spokesperson verbally clarified the salary reopener proposal at the March 21, 1984 Board meeting, the written proposal that was initially "sunshined" varied from the written proposal that was on the Board's agenda for public response on April 4, 1984. (Local 99 Business Representative Pat Prete indicated at the Board meeting of March 21, 1984 that the employee organization's intent was to request a \$2.00 per hour increase over the 1982-83 salary schedule.) The April 4, 1984 District informative contained the \$2.00 per hour proposal whereas the March 21, 1984 proposal had not mentioned any specific amount.

Minutes from both meetings of March 21, and April 4, 1984 indicate that you were present, questioned Mr. Prete on March 21, 1984 and had an opportunity on April 4, 1984 to respond to Local 99's proposal.

Section 3547(a) of the Act provides that all initial proposals shall be presented at a public meeting of the public school employer. Local 99's proposal on the wage reopener was presented at the meeting of March 21, 1984. The employer clearly cannot dictate how, or in what form an exclusive representative presents its proposal¹. The proposal as submitted by Local 99 at the March 21, 1984 Board meeting indicated the subject of the proposal as the wage reopener. At that meeting, Local 99 representative Prete specified the amount of the requested salary increase. You had the opportunity to question Mr. Prete at this meeting. At the subsequent meeting the District afforded you time to express yourself as to said proposal before meeting and negotiating began. If Mr. Prete had failed to clarify the proposal on salaries, consideration would have been given to the lack of specificity,² but any mistake or misjudgment the exclusive representative might have made was quickly and thoroughly rectified.

Therefore, because the instant complaint does not state a prima facie violation of EERA section 3547 and cannot be amended to do so, it is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Additionally, your request for assistance filed on May 4, 1984 pursuant to Regulation 32163 is hereby dismissed. There were no technical deficiencies in this complaint that I could have helped you correct. I will remain available to assist you with any technical problems you may have in filing or processing your complaints but I will not provide legal advice or opinion to help you correct your allegations.

¹ PERB in Decision No. 158 *Kimmett v. Los Angeles Community College District and California School Employees Association, Chapter 307* (3/3/81), explained that it was the "obligation and responsibility of the employer to provide public notice and to present both the exclusive representative and its own." Clearly, you didn't expect the employer to modify the written proposal of the exclusive representative.

² See *Fein v. Palo Alto USD and Palo Alto Educators Association* (12/2/81) PERB Decision No. 184.
