

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



CALIFORNIA SCHOOL EMPLOYEES)
ASSOCIATION AND ITS NEVADA UNION)
CHAPTER NO. 165,) Case No. S-CE-566
)
Charging Party,) Request for Reconsideration
) PERB Decision No. 557
v.)
) PERB Decision No. 557a
NEVADA JOINT UNION HIGH SCHOOL)
DISTRICT,) April 10, 1986
)
Respondent.)
_____)

Appearances: Christopher E. Niehaus, Field Representative, for California School Employees Association and its Nevada Union Chapter No. 165; Finkle & Stroup by Mary Beth de Goede for Nevada Joint Union High School District.

Before Morgenstern, Burt and Porter, Members.

DECISION

BURT, Member: The Public Employment Relations Board (PERB or Board), having duly considered the request for reconsideration of PERB Decision No. 557 submitted by Charging Party California School Employees Association and its Nevada Union Chapter No. 165 (CSEA or Association), hereby denies that request.

In its Decision No. 557, the Board upheld the administrative law judge's decision finding that the Nevada Joint Union High School District (District) violated section 3543.5(a), (b) and (c) of the Educational Employment Relations

Act (EERA)¹ by its unilateral change in the method of calculating monthly payments to certain classified employees. In so finding, the Board rejected the District's argument that the change in calculating monthly payments had been fully negotiated with CSEA, together with an agreement to change the method of calculating vacation pay. The Board ordered the parties to negotiate about the issue, but declined to order a return to the status quo, since it found that a true status quo ante remedy would require that both changes be reversed, thus leaving these classified employees with a net reduction in pay.

Pursuant to PERB Regulation 32410,² the Association requests reconsideration of the remedy awarded by the Board, claiming, as it has throughout, that the Board should roll back the monthly pay calculation without reference to the vacation pay agreement.

¹EERA is codified at Government Code section 3540 et seq. All statutory references herein are to the Government Code unless otherwise noted.

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

Regulation 32410 states, in pertinent part:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law

Contrary to the Association's argument, we found in the underlying decision that the vacation payment was included in the prior monthly salary calculation and was integrally tied to the underlying dispute. Accordingly, the vacation pay element was germane rather than peripheral to the parties' dispute and the Board appropriately determined that, to effectuate the purposes of EERA,³ it was preferable to roll back neither the monthly pay calculation nor the vacation pay agreement than to roll back both.

ORDER

The request for reconsideration of PERB Decision No. 557 (Case No. S-CE-566) is hereby DENIED.

Members Morgenstern and Porter joined in this Decision.

which was not previously available, and could not have been discovered with the exercise of reasonable diligence.

³EERA section 3541.5(c) provides as follows:

(c) The board shall have the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

PROOF OF SERVICE BY MAIL
C.C.P. 1013a

I declare that I am employed in the County of Sacramento, California.

I am over the age of 18 years and not a party to the within entitled cause; my business address is
1031 18th Street, Suite 200 Sacramento, California 95814

On April 10, 1986, I served the enclosed _____
(Date)

PERB Decision No. 557a
Nevada Jt. Union High School District
Case No. S-CE-566 (PERB Decision No. 557)

(Describe Document)

on the parties to this case by placing a true copy thereof enclosed in a sealed envelope with
postage thereon fully prepaid, in the United States Mail, Sacramento,
(City or Town)

California, addressed as follows:

Nevada Jt. Union High School District
Attn: Michael D. Barkhurst, Supt.
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Nevada Union Chapter 165
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California School Employees Assoc.
5301 Madison Ave., Suite 102
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*I declare under penalty of perjury that the foregoing is true and correct and that this
declaration was executed on*

April 10, 19 86 at Sacramento, California.
(Date) (City or Town)

Teresa Stewart
(Type or print name)


(Signature)

