



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-134
)
 v.) PERB Decision No. 1044
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) April 19, 1994
)
 Respondent.)

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

Before Blair, Chair; Carlyle and Garcia, Members.

DECISION

GARCIA, Member: This case is before the Public Employment Relations Board (Board) on appeal by Howard O. Watts (Watts) of a Board agent's dismissal (attached hereto) of his public notice complaint. The Board agent found that the complaint, alleging that the Los Angeles Unified School District (District) violated section 3547(a), (b) and (e) of the Educational Employment Relations Act (EERA),¹ did not state a prima facie case and

¹EERA is codified at Government Code section 3540 et seq. Section 3547 states, in pertinent 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

dismissed it.

The Board has reviewed the entire record including the complaint, the Board agent's dismissal, and Watts' appeal.² The Board finds the Board agent's dismissal to be free of prejudicial error and adopts it as the decision of the Board itself.

ORDER

The public notice complaint in Case No. LA-PN-134 is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Chair Blair and Member Carlyle joined in this Decision.

to express itself regarding the proposal at a meeting of the public school employer.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.

²The District did not file a response to the appeal.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,)
)
 v.) Case No. LA-PN-134
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) DISMISSAL OF PUBLIC
) NOTICE COMPLAINT
)
 Respondent.) December 14, 1993
)
 _____)

This decision dismisses the above-captioned public notice complaint filed by Howard O. Watts (Watts) against the Los Angeles Unified School District (District).

BACKGROUND

On May 7, 1993,¹ Watts filed a public notice complaint with the Public Employment Relations Board (PERB) pursuant to PERB Regulation 32910.² The complaint alleges that the District violated the Educational Employment Relations Act (EERA or Act)³

¹All dates referenced herein are calendar year 1993.

²PERB Regulation 32910 states, in pertinent part:

Filing of EERA or HEERA Complaint. A complaint alleging that an employer or an exclusive representative has failed to comply with Government Code sections 3547 or 3595 may be filed in the regional office. An EERA complaint may be filed by an individual who is a resident of the school district involved in the complaint or who is the parent or guardian of a student in the school district or is an adult student in the district.

³The EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Section 3547(a), (b) and (e) states:

(a) All initial proposals of exclusive representatives and of public school

section 3547(a), (b) and (e) by not providing the public with copies of the District's initial proposal regarding the 1993-94 calendar for the bargaining units represented by the Associated Administrators of Los Angeles (AALA) and the United Teachers of Los Angeles (UTLA). Watts asserts that the unavailability of copies of the proposal when it was listed on the Board of Education's agenda for its April 5 and April 8 meetings prevented the public from acquiring sufficient knowledge thereof prior to scheduled public comment opportunities.

Watts also appears to assert that an insufficient period of time was allowed for public comment on the proposal. Additionally, Watts complains that the school board meetings were scheduled at "unreasonable" hours, that the proposals were

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.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.

presented at special, rather than regular, meetings, and that copies of the proposals were not sent to the schools "when they were to be given to Advisory Councils."

FACTS

The District's initial 1993-94 calendar proposal was first listed on the agenda of the April 5 public Committee of the Whole meeting.⁴ That meeting was continued to April 8, when the proposal was again on the agenda. Watts asserts that copies of the proposal were "nowhere to be found" at either of these meetings.⁵ He confirms that he did receive a copy of the proposal at 3:20 p.m. on April 12. Minutes of the special Board of Education meeting which began at 2 p.m. that day reflect that both Watts and another individual addressed the board regarding the proposal. It is unclear whether Watts spoke before or after he received his copy of the proposal. Also at that meeting, it was announced that the board would hear speakers on the calendar proposal at the special Committee of the Whole meeting at 5 p.m. on April 26 and at the regular Board of Education meeting at 2 p.m. on May 3.

⁴A "Committee of the Whole" is composed of the members of the Board of Education sitting as an investigative organ without authority to act on the matters being investigated. (Los Angeles Unified School District (1984) PERB Decision No. 397.)

⁵In its response to the complaint, the District stated that copies of the proposal were provided at the speaker's table for interested parties as follows: 50 copies on April 5, 75 copies on April 12, 100 copies on April 26 and 50 copies on May 3. However, as discussed below, the dispute over the availability (or lack thereof) of copies at the April 5 meeting is not material to the disposition of this complaint.

At the April 26 meeting, Watts was one of seven persons who spoke regarding the calendar proposal.⁶ He also spoke at the May 3 meeting (along with 18 other individuals), after which the initial proposal for the 1993-94 calendar was adopted.

ISSUES

1. Did the District fail to make its initial proposal regarding the 1993-94 school calendar for the AALA and UTLA bargaining units available to the public in a timely manner?

2. Was a sufficient period of time allowed for public comment on the proposal?

3. Is the following District conduct unlawful:

(a) convening its public comment meetings at "unreasonable" hours (i.e., during the workday); (b) presenting and allowing public comment regarding its initial calendar proposal during special, rather than regular, meetings; and (c) not sending copies of the proposal to the schools in a timely manner.

DISCUSSION

The intent of the public notice requirements is set forth in section 3547(e):

. . . that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know the positions of their elected representatives.

PERB's regulations implementing the provisions of section 3547 were adopted to fully protect the public's right in

⁶This information was not included in the complaint. (See footnote 7.)

this regard. (Los Angeles Community College District (1978) PERB Order No. Ad-41.)

Availability Of Proposals In A Timely Manner

In Los Angeles Community College District (1980) PERB Decision No. 153, the PERB held that:

[T]he statute requires that all initial proposals be presented at a public meeting and, thereafter, become public records. Beyond this the statute is silent. It does not specify that copies of proposals must be made available at all subsequent meetings.

(Emphasis added.)

In order for the District to meet its obligations under EERA it must make copies of its initial proposals available at a (i.e., one) public meeting and allow the public a reasonable opportunity to make comment at subsequent meetings. However, there is no requirement that copies be available at the first meeting at which the proposals are listed on the agenda.

Watts admits that he received a copy of the calendar proposal at 3:20 on April 12. Furthermore, minutes of both the April 26 and May 3 meetings reflect that he and other members of the public addressed the board regarding the proposal.⁷ Thus, even if copies were not available when the proposal was first placed on the agenda on April 5 and April 8, copies were made available prior to the two meetings later held for public comment, thus fulfilling the District's public notice obligation

⁷In a conversation with the undersigned on December 3, 1993, Watts asserted that his comments at the April 26 meeting are irrelevant since that meeting was not a "regular" Board of Education meeting. Pursuant to the discussion below, this assertion is found to be without merit.

under the EERA.

Reasonable Time Period For Public Comment

In San Francisco Community College District (1979) PERB Decision No. 105, PERB found that no specific formula exists for determining what constitutes a "reasonable time" for the public to become informed and make comment on initial bargaining proposals, and that each case should be examined based on the facts. PERB has since held that periods of eight days and two weeks constitute "reasonable time." (Los Angeles Unified School District (1993) PERB Decision No. 1000; Log Angeles Unified School District (1990) PERB Decision No. 852.) In this case, even if no copies of the proposal were available until April 12, as Watts claims, three weeks elapsed from that date until May 3, the date of the last public comment meeting prior to the adoption of the proposal. It is clear that, under PERB case law, three weeks is a sufficient period of time to meet the requirements of the Act.

Regulation Of School Board Meetings

PERB has held that the regulation of local school board meetings is left to the discretion of the local boards. (Los Angeles Community College District (1981) PERB Decision No. 158; Los Angeles Community College District (1980) PERB Decision No. 154; Los Angeles Community College District, supra. PERB Decision No. 153.) Thus, while an employer is required to adopt its initial proposals at a **public** meeting, the EERA sets forth no requirements regarding the time or the type of meeting (regular

or special) that must be held. (Los Angeles Unified School District, supra. PERB Decision No. 1000; Los Angeles Unified School District (1984) PERB Decision No. 397.) In this case, the Board of Education and Committee of the Whole meetings held on April 12 (2 p.m.), April 26 (5 p.m.) and May 3 (2 p.m.) were public meetings, as evidenced by the fact that members of the public addressed the board regarding the 1993-94 calendar proposal at each of those meetings. Thus, under PERB precedent, these public meetings satisfy the requirements of the EERA. District's Failure To Comply With Local Public Notice Policy

Finally, Watts alleges that the District did not disseminate copies of initial proposals to school sites "when they were to be given to Advisory Councils." This is apparently an assertion that the District failed to adhere to its own public notice policy by not providing the schools with copies of the proposal in a timely manner.

There is no specific requirement in the EERA which parallels the District's policy in this regard. As discussed above, the District has fulfilled its obligations under the statute that the public be informed, and, thus, the allegation that it failed to follow its own policy of sending copies of proposals to the schools does not state a prima facie violation of the Act. (Los Angeles Unified School District (1993) PERB Decision No. 1013; Los Angeles Unified School District (1983) PERB Decision No. 335; Los Angeles Unified School District (1980) PERB Decision No. 152.)

CONCLUSION AND ORDER

Based on the law and precedent discussed above, it is determined that the Los Angeles Unified School District (District) fulfilled its public notice obligations under the Educational Employment Relations Act when it provided copies to the public of its initial 1993-94 calendar proposal by at least April 12, 1993 and allowed for public comment regarding the proposal at public meetings on April 12, April 26 and May 3, 1993. It is also determined that the allegations regarding the time and type of the District's public comment meetings and the allegedly untimely dissemination of proposals to the school sites fail to state prima facie violations of Government Code section 3547. Therefore, the public notice complaint is DISMISSED without leave to amend.

Right to Appeal

Pursuant to Public Employment Relations Board regulations, any party adversely affected by this ruling may appeal to the Board itself by filing a written appeal within twenty (20) calendar days after service of this ruling (California Code of Regulations, title 8, section 32925). To be timely filed, the original and five copies of such appeal must be actually received by the Board itself before the close of business (5 p.m.) or sent by telegraph, certified or Express United States mail postmarked no later than the last date set for filing (California Code of Regulations, title 8, section 32135). Code of Civil Procedure section 1013 shall apply. The Board's address is:

Members, Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814

The appeal must state the specific issues of procedure, fact, law or rationale that are appealed, must clearly and concisely state the grounds for each issue stated, and must be signed by the appealing party or its agent.

If a timely appeal of this ruling is filed, any other party may file with the Board itself an original and five copies of a statement in opposition within twenty calendar days following the date of service of the appeal (California Code of Regulations, title 8, section 32625). If no timely appeal is filed, the aforementioned ruling shall become final upon the expiration of the specified time limits.

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding and the San Francisco Regional Office. A "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See California Code of Regulations, title 8, section 32140 for the required contents and a sample form.) The appeal and any opposition to an appeal will be considered properly "served" when personally delivered or deposited in the first-class mail postage paid and properly addressed.

Extension of Time

A request for an extension of time in which to file an appeal or opposition to an appeal with the Board itself must be

