

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



PAULA J. SELIGA,)
)
 Charging Party,) Case No. LA-CE-3946
)
 v.) Request for Reconsideration
) PERB Decision No. 1300
 LOS ANGELES UNIFIED SCHOOL)
 DISTRICT,)
) PERB Decision No. 1300a
 Respondent.)
 _____)) February 1, 1999

Appearance: Paula J. Seliga, on her own behalf.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

DYER, Member: This case comes before the Public Employment Relations Board (PERB or Board) on Paula J. Seliga's (Seliga) request that the Board reconsider its decision in Los Angeles Unified School District (1998) PERB Decision No. 1300 (LAUSD). In LAUSD, Seliga alleged that the Los Angeles Unified School District (District) violated section 3543.5(a) of the Educational Employment Relations Act (EERA)¹ when it transferred her from

¹EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Section 3543.5 provides, in relevant part:

It shall be unlawful for a public school employer to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an

Bertrand School to Hazeltine School in retaliation for her protected activities. After investigation, the Board's Office of General Counsel dismissed the charge and refused to issue a complaint. The Board adopted that dismissal in LAUSD.

BACKGROUND

Seliga's charge alleged that, during the 1997-98 school year, she filed a number of grievances and served on United Teachers of Los Angeles' House of Representatives. In January of 1998, Seliga reported the District's alleged misuse of funds to the California Department of Education. In June of 1998, the District involuntarily transferred Seliga from Bertrand School to Hazeltine School. Seliga alleged that the District initiated this transfer in retaliation for her protected activities.

In order to state a prima facie cause of action for a violation of EERA section 3543.5(a), a charging party must show that: (1) the employee exercised rights protected by the EERA; (2) the employer had knowledge of the exercise of those rights; (3) the employer imposed or threatened to impose reprisals, discriminated or threatened to discriminate, or otherwise interfered with, restrained or coerced the employee because of the exercise of those rights. (Novato Unified School District (1982) PERB Decision No. 210 at pp. 5-6; Carlsbad Unified School District (1979) PERB Decision No. 89 at p. 11.) In adopting the Board agent's dismissal, the Board concluded that Seliga had

applicant for employment or reemployment.

failed to demonstrate the requisite connection between her protected activities and the District's decision to transfer her.

DISCUSSION

PERB Regulation section 32410² provides that a party to a Board decision may request reconsideration on the grounds that the decision contains prejudicial errors of fact, or newly discovered evidence or law. The Board will not grant a request for reconsideration where the party making the request has failed to establish any ground set forth in PERB Regulation 32410. (See, e.g., California State Employees Association, Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S at pp. 2-3.) Likewise, reconsideration is not appropriate where a party merely restates arguments considered and rejected by the Board in its

²PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. PERB Regulation section 32410 provides, in relevant 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. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. 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 which was not previously available and could not have been discovered with the exercise of reasonable diligence.

underlying decision. (Id.; Regents of the University of California (1990) PERB Decision No. 829a-H at pp. 2-3.)

In her request for reconsideration, Seliga reiterates her contention that the District retaliated against her because of her protected activities. Seliga's request does not, however, point to any prejudicial error of fact, or newly discovered evidence or law. Accordingly, Seliga's request for reconsideration fails to meet the standard set forth in PERB Regulation section 32410.

ORDER

The request for reconsideration in Los Angeles Unified School District (1998) PERB Decision No. 1300 is hereby DENIED.

Chairman Caffrey and Member Amador joined in this Decision.