

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JOSE ANTONIO COOKE,)
)
Charging Party,) Case No. LA-CO-778
)
v.) Request for Reconsideration
) PERB Decision No. 1306
SERVICE EMPLOYEES INTERNATIONAL)
UNION, LOCAL 99,) PERB Decision No. 1306a
)
Respondent.) March 24, 1999
)
_____)

Appearance: Jose Antonio Cooke, on his own behalf.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

CAFFREY, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on a request by Jose Antonio Cooke (Cooke) that the Board reconsider its decision in Service Employees International Union, Local 99 (Cooke) (1999) PERB Decision No. 1306. In that decision, the Board dismissed Cooke's unfair practice charge which alleged that the Service Employees International Union, Local 99 breached the duty of fair representation guaranteed by the Educational Employment Relations Act (EERA)¹ by failing to represent him in his civil action against the Los Angeles Unified School District (District) and in District Personnel Commission proceedings.

¹EERA is codified at Government Code section 3540 et seq.

DISCUSSION

PERB Regulation 32410² permits any party to a decision of the Board itself to request the Board to reconsider that decision. It states, in pertinent part:

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.

The Board has strictly applied these limited grounds in considering reconsideration requests specifically to avoid the use of the reconsideration process to reargue or relitigate issues which have already been decided. (Redwoods Community College District (1994) PERB Decision No. 1047a; State of California (Department of Corrections) (1995) PERB Decision No. 1100a-S.) Similarly, reconsideration will not be granted based on a claim of an alleged prejudicial error of law. (Jamestown Elementary School District (1989) PERB Order No. Ad-187a.) In numerous request for reconsideration cases, the Board has declined to reconsider matters previously offered by the parties and rejected in the underlying decision. (California State University (1995) PERB Decision No. 1093a-H; California State Employees Association, Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S; California Faculty Association (Wang)

²PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. A revision to PERB Regulation 32410 became effective on February 7, 1999, subsequent to the filing of this request for reconsideration. The revision has no bearing on the Board's consideration of this request.

(1988) PERB Decision No. 692a-H; Tustin Unified School District
(1987) PERB Decision No. 626a; Riverside Unified School District
(1987) PERB Decision No. 622a.)

On February 3, 1999, Cooke filed the instant request for reconsideration. However, Cooke makes no assertions that the Board's decision contains prejudicial errors of fact, or that he has found newly discovered evidence or law. (Regents of the University of California (1998) PERB Decision No. 1271-H at p. 3.) Therefore, Cooke's request fails to demonstrate grounds for reconsideration sufficient to comply with PERB Regulation 32410.

ORDER

The request for reconsideration in Service Employees International Union, Local 99 (Cooke) (1999) PERB Decision No. 1306 is hereby DENIED.

Members Dyer and Amador joined in this Decision.