

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

CALIFORNIA NURSES ASSOCIATION,

Charging Party,

v.

ANTELOPE VALLEY HEALTH CARE
DISTRICT,

Respondent.

Case No. LA-CE-64-M

PERB Decision No. 1509

February 5, 2003

Appearances: Law Offices of James Eggleston by James E. Eggleston, Attorney, for California Nurses Association; O'Melveny & Myers LLP by Brian S. Westerfeld and Mary P. Palmer, Attorneys, for Antelope Valley Health Care District.

Before Baker, Whitehead and Neima, Members.

DECISION

WHITEHEAD, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Antelope Valley Health Care District (District) to the administrative law judge's (ALJ) proposed decision. The complaint alleged that the District rejected the California Nurses Association's (CNA) request to participate in a signature card verification process pursuant to section 3507.1(c) of the Meyers-Milias-Brown Act (MMBA)¹ thereby violating MMBA sections 3503, 3506 and PERB Regulation 32603(a) and (b)². The complaint also alleged that by maintaining a local rule requiring the employee

¹MMBA is codified at Government Code section 3500 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

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

organization to prevail by a majority vote in an election in which at least 80 percent of the eligible employees in the representation unit cast valid ballots, the District has violated MMBA sections 3507.1, 3503 and 3506 and PERB Regulation 32603(a) and (b). The complaint further alleged that the District interfered with employee rights and denied CNA the right to represent employees by: (1) removing union literature from bulletin boards and mailboxes; (2) denying employees the right to wear union buttons in the workplace; and (3) issuing a threat to bargaining unit employees. CNA later withdrew these allegations without prejudice.

In his proposed decision, the ALJ found that the District unlawfully denied CNA's right to invoke the card check procedure pursuant to MMBA section 3507.1(c) and thus interfered with the right of employees to participate in the activities of an employee organization of their own choosing, in violation of MMBA section 3506 and PERB Regulation 32603(a), and of the right of CNA to represent employees in their employment relations with the District, in violation of MMBA section 3503 and PERB Regulation 32603(b). In addition, the ALJ found the allegation regarding the 80 percent rule to be moot since the District had earlier rescinded that rule.

The Board's authority to accept a party's request to withdraw exceptions lies with PERB Regulation 32320(a), which provides:

- (a) The Board itself may:
 - (1) Issue a decision based upon the record of hearing, or
 - (2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper. [Emphasis added.]

In ABC Unified School District (1991) PERB Decision No. 831b, the Board confirmed its discretion in this matter.

In this case, the District filed exceptions to the proposed decision and CNA responded, indicating its complete agreement with the proposed decision. CNA did not file exceptions. On December 26, 2002, the District filed a letter requesting withdrawal of its exceptions to the proposed decision. The December 26, 2002 letter was properly served on CNA. There has been no response from CNA to the District's request.

After reviewing the entire record, the Board finds that such withdrawal is appropriate and is consistent with the purposes of the MMBA.

ORDER

It is hereby ORDERED that the exceptions in Case No. LA-CE-64-M are hereby WITHDRAWN WITH PREJUDICE.

Members Baker and Neima joined in this Decision.