

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JAMES ERIC FERGUSON,

Charging Party,

v.

OAKLAND UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. SF-CE-2364-E

Request for Reconsideration

PERB Decision No. 1645

PERB Decision No. 1645a
August 30, 2004

Appearance: William H. Hanson, Attorney, for James Eric Ferguson.

Before Duncan, Chairman; Whitehead and Neima, Members.

DECISION

DUNCAN, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by James Eric Ferguson (Ferguson) of the Board's decision in Oakland Unified School District (2004) PERB Decision No. 1645 (Oakland).

In Oakland, the Board dismissed the unfair practice charge alleging the Oakland Unified School District violated Educational Employment Relations Act (EERA)¹ section 3543.5(a) by transferring him from Castlemont High School to Cole Middle School.

Ferguson seeks reconsideration based on his belief that the decision ignores material facts and is based on prejudicial errors of fact. For the reasons set forth below, the request for reconsideration is denied.

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

DISCUSSION

Requests for reconsideration are governed by PERB Regulation 32410.² PERB

Regulation 32410 provides, in pertinent part:

The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence.

Simply arguing the same facts that were presented to the Board on appeal does not fill the requirements of the regulation. Ferguson has presented no new evidence and has only put forth the very same argument he raised on appeal. Ferguson has not met either of the grounds for reconsideration and therefore the request is denied.

ORDER

James Eric Ferguson's request for reconsideration of the Board's decision in Oakland Unified School District (2004) PERB Decision No. 1645 is hereby DENIED.

Members Whitehead and Neima joined in this Decision.

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