STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

ANNETTE (BARUDONI) DEGLOW, Charging Party, v. LOS RIOS COMMUNITY COLLEGE DISTRICT, Respondent.	Case No. SA-CE-2912-E
ANNETTE (BARUDONI) DEGLOW, Charging Party, v. LOS RIOS COLLEGE FEDERATION OF TEACHERS, LOCAL 2279, Respondent.	Case No. SA-CO-622-E PERB Decision No. 2614-E December 21, 2018

Appearances: Annette Deglow, on her own behalf; Churchwell White by Meg Wilson, Attorney, for Los Rios Community College District; Law Offices of Robert J. Bezemek by David Conway, Attorney, for Los Rios College Federation of Teachers, Local 2279.

Before Banks, Winslow, and Krantz, Members.

DECISION

WINSLOW, Member: These cases are before the Public Employment Relations Board (PERB or Board) on Annette Deglow's (Deglow) appeals of the dismissals of two unfair practice charges by PERB's Office of the General Counsel.[1] In her charges and on appeal, Deglow seeks "immediate re-consideration" of two unfair practice charges that were filed in

[1] Because the cases involve the same issues, we have consolidated them for decision. (See *Children of Promise Preparatory Academy* (2018) PERB Decision No. 2558, p. 2; PERB Reg. 32612, subd. (d) [PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.].)

1986 by the Los Rios Teachers Association, CTA/NEA (Association) against the Los Rios Community College District (District) and the Los Rios College Federation of Teachers, Local 2779 (Federation), respectively, and dismissed by a PERB Regional Attorney in 1987.

Having reviewed the case files, Deglow's appeals, and the responses of the District and the Federation, we affirm the dismissal of the charges for the reasons that follow.[2]

BACKGROUND

The Association's charges against the District (Case No. S-CE-1033-E) and the Federation (Case No. S-CO-143-E) alleged that the District and the Federation violated the

[2] After the filings in both matters were complete, Deglow filed several additional documents. Many of these documents merely repeat arguments made in her earlier filings. Because PERB Regulations do not expressly permit or prohibit reply briefs, we have discretion whether to accept them. (*City of Milpitas* (2015) PERB Decision No. 2443-M, p. 13.) Deglow's additional filings are duplicative of her previous ones, and we find they do not assist our review of this case.

Deglow also requested to make an oral presentation to the Board. Our regulations specifically permit us to grant oral argument regarding exceptions to a proposed decision (PERB Reg. 32315), but contain no analogous provision for oral argument regarding an appeal from a dismissal. Assuming, without deciding, that we have discretion to grant oral argument in such a case, oral argument is not necessary here. (See *City of San Diego (Office of the City Attorney)* (2010) PERB Decision No. 2103-M, p. 2, fn. 4.) We deny Deglow's request.

We also received a request from Deglow that we re-open the record to include a September 28, 2018 letter from the District's associate vice chancellor of human resources acknowledging that the District had discovered that it should have begun supplementing Deglow's pay with a 20-year longevity differential in 2017. Because Deglow could not have obtained this letter before her charge was dismissed, we find good cause for Deglow to present the letter on appeal. (PERB Reg. 32635, subd. (b).) However, Deglow's argument that the letter proves the District's personnel records are incomplete has no bearing on the dispositive issue in these cases.

Finally, on December 13, 2018, nearly five months after filing the appeals in these cases, Deglow filed a document with additional allegations concerning her employment history with the District and a series of documents dated between 1978 and 1997. Deglow has not established the requisite good cause for presenting these new charge allegations on appeal. (PERB Reg. 32635, subd. (b).) In any event, having reviewed these documents, we conclude they also have no bearing on the dispositive issue here.

Educational Employment Relations Act (EERA)[3] by agreeing to modify a provision of their collective bargaining agreement concerning entitlement to a longevity salary differential. This modification was alleged to be detrimental to Deglow and other part-time instructors employed by the District. According to PERB's records, the Association's charges were dismissed on March 17, 1987 and April 6, 1987, respectively. The Association did not appeal these dismissals to the Board itself.

On March 14, 2018, Deglow filed what purported to be two new unfair practice charges, one each against the District and the Federation, to which she attached copies of the Association's 1986 charges. The statement of the charge, which is identical in both charges, states:

> I submit this 1986 Unfair Practice Charge for immediate re-consideration and [*sic*] on the grounds that there is no time line identified in the EERA for an investigation and corrective action of an alleged impermissible application of section 3541.5(a)(1) of the EERA by a PERB Regional Attorney. I further submit that when it is alleged that a PERB Regional Attorney knowingly or unknowingly facilitates an employer and employee organization[']s joint effort to circumvent the holdings of a court award, an investigation and corrective action must follow. Therefor[e], I submit this 1986 Unfair Practice Charge for re-evaluation.

DISCUSSION

Under our regulations, the procedure for alleging that an employer or an employee organization has violated EERA or one of the other statutes within the Board's jurisdiction is to file an unfair practice charge. (PERB Reg. 32602, subds. (a), (b).) On the other hand, the procedure for claiming error in the dismissal of an unfair practice charge is to appeal the dismissal to the Board itself. (PERB Reg. 32635.)

[3] EERA is codified at Government Code section 3540 et seq.

The unfair practice charges before us challenge the dismissal of the Association's charges by a PERB Regional Attorney. They are, in substance, appeals of the dismissals. (Cf. *California School Employees Association & its Chapter 746 (Perez)* (2011) PERB Decision No. 2187, p. 4 [historically, PERB treats an amended charge filed after dismissal as an appeal from the dismissal].) And they are fatally defective.

Our regulations provide, as they did in 1987: "Within 20 days of the date of service of a dismissal [of an unfair practice charge], the charging party may appeal the dismissal to the Board itself." (PERB Reg. 32635, subd. (a).) Deglow lacks standing to appeal the dismissal of unfair practice charges in which she was not the charging party. (*Regents of the University of California (Lawrence Berkeley National Laboratory)* (2013) PERB Order No. Ad-397-H, pp. 4-5 [employee who was allegedly retaliated against lacked standing to file exceptions to proposed decision where the charging party was her union].) In addition, any appeal would be untimely by more than a quarter century.[4]

We therefore affirm the dismissal of Deglow's charges.

Request for Sanctions

Both the District and the Federation have requested sanctions against Deglow for filing the present unfair practice charges and appeals, as well as for filing subsequent unfair practice charges that, they claim, raise the same issues.

"PERB precedent requires that, to obtain monetary sanctions, including attorney's fees or other reasonable litigation expenses, the moving party must demonstrate that the claim,

[4] Late filings may be excused "in the discretion of the Board for good cause only" (PERB Reg. 32136), a standard which requires "an affirmative showing of good cause for the late filing, as well as the absence of prejudice to the opposing party." (*Los Angeles Unified School District* (2017) PERB Order No. Ad-456, p. 3.) Deglow has made no attempt to establish good cause for such untimely filings.

defense, motion or other action or tactic was 'without arguable merit' and pursued in 'bad faith.'" (*Lake Elsinore Unified School District* (2018) PERB Order No. Ad-446a, p. 5, quoting *City of Alhambra* (2009) PERB Decision No. 2036-M, p. 19.)

We acknowledge, as the District and the Federation note, that Deglow has a lengthy history of filing repetitive unfair practice charges seeking to relitigate issues that have already been resolved against her, and the Board has previously threatened to impose sanctions for further filings. (See, e.g., *Los Rios College Federation of Teachers, Local 2279 (Deglow)* (2003) PERB Decision No. 1515, disapproved in part by *City of Alhambra*, *supra*, PERB Decision No. 2036-M[5]; *Los Rios College Federation of Teachers, CFT/AFT Local 2279 (Deglow)* (1996) PERB Decision No. 1140; *Los Rios College Federation of Teachers (Deglow)* (1996) PERB Decision No. 1133.) Nevertheless, we conclude that it is not necessary at this time to determine whether to order monetary sanctions against Deglow. Because the sanctions requests rely not only on the charges before us, but also on additional charges pending with the Office of the General Counsel, it is appropriate to defer a ruling on monetary sanctions until the remaining charges have been resolved. Moreover, the interests of administrative economy are better served by deciding the monetary sanctions issue at one time, not piecemeal. And by deferring resolution of this question, we renew our previous notice to Deglow that she may be

[5] In *City of Alhambra*, *supra*, PERB Decision No. 2036-M, we disapproved the statement in *Los Rios College Federation of Teachers, Local 2279 (Deglow)*, *supra*, PERB Decision No. 1515 that the Board may order sanctions "only after it has ordered the party to cease and desist from filing frivolous charges over the same factual and legal issues previously addressed by the Board." (*Id.* at pp. 4-5.) We determined, to the contrary, that "PERB has the authority to award attorneys fees based on a single filing of a frivolous charge in bad faith." (*City of Alhambra*, *supra*, at p. 19, fn. 17.)

subject to monetary sanctions should she continue to pursue in bad faith cases that lack even arguable merit.[6]

For these reasons, we deny the District's and the Association's requests for monetary sanctions, without prejudice to refiling after Deglow's remaining charges are resolved.

However, in furtherance of the interests of administrative economy and conservation of the parties' resources, we direct that in future proceedings at any level of PERB regarding matters brought by Deglow, all other parties to such matters are hereby advised that they may refrain from any and all responsive filings unless and until PERB directs otherwise. We issue this order as a litigation sanction. Thus, for instance, in any unfair practice charge that Deglow files in the future, regardless of whether a respondent receives a standard letter from PERB indicating a due date for a response, such a respondent need not file a response unless and until the Office of the General Counsel notifies the respondent that the charge raises colorable new allegations of EERA violations, and that a response is therefore required. If a new or pending charge instead merely seeks to litigate or relitigate frivolous allegations, the Office of the General Counsel should proceed to process the case according to PERB Regulation 32620, subdivision (d).

ORDER

The unfair practice charges in Case Nos. SA-CE-2912-E and SA-CO-622-E are DISMISSED WITHOUT LEAVE TO AMEND. The requests for monetary sanctions in Case Nos. SA-CE-2912-E and SA-CO-622-E are DENIED WITHOUT PREJUDICE.

Members Banks and Krantz joined in this Decision.

[6] If any party moves for sanctions against Deglow in a future filing, Deglow should clearly explain, in a timely, written response (see PERB Reg. 32190, subd. (b)), why she believes such sanctions are not warranted under PERB precedent.