

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



UNITED PUBLIC EMPLOYEES, LOCAL 390,
SEIU, AFL-CIO,
Employee Organization,
APPELLANT,
and
PUBLIC EMPLOYEES UNION, LOCAL NO. 1,
Employee Organization,
and
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION,
PITTSBURG CHAPTER NO. 44,
Employee Organization,
and
PITTSBURG UNIFIED SCHOOL DISTRICT,
Employer.

Case Nos. SF-D-18
SF-D-20

PERB Order No. Ad- 34
Administrative Appeal
May 26, 1978

Appearances: Stewart Weinberg, Attorney (Van Bourg, Allen, Weinberg and Roger) for United Public Employees, Local 390, SEIU, AFL-CIO; Henry L. Clarke, General Manager, for Public Employees Union, Local No. 1; Sal P. Cardinale, Deputy Superintendent, for Pittsburg Unified School District; California School Employees Association, Pittsburg Chapter No. 44 made no appearance.

Before Gluck, Chairperson; Gonzales and Cossack Twohey, Members.

OPINION

United Public Employees, Local 390, SEIU, AFL-CIO (hereafter SEIU) requests a stay of a decertification election ordered by the San Francisco regional director in a unit of classified employees of the Pittsburg Unified School District. The stay is requested pending the resolution by the Board itself of an administrative appeal filed by SEIU which claims that Public

Employees Union, Local No. 1 (hereafter Local No. 1) should not appear on the ballot in the election because it did not file a valid decertification petition.

FACTS

The agreement negotiated by the present exclusive representative of the unit expires on June 30, 1978. A valid decertification petition was filed by SEIU during the "window period" allowed by Educational Employment Relations Act (hereafter EERA) section 3544.7(b)(1).¹ A decertification petition was also filed by Local No. 1 one day before the window period closed, but the regional director determined it was not accompanied by the 30 percent showing of support required by EERA section 3544.5(d).² After the window period had closed the regional director notified Local No. 1

¹Government Code section 3544.7(b)(1) provides:

(b) No election shall be held and the petition shall be dismissed... (1)... unless the request for recognition is filed less than 120 days, but more than 90 days, prior to the expiration date of the agreement....

²Government Code section 3544.5(d) provides:

A petition may be filed with the board, in accordance with its rules and regulations, requesting it to investigate and decide the question of whether employees have selected or wish to select an exclusive representative or to determine the appropriateness of a unit, by:

.....

(d) An employee organization alleging that the employees in an appropriate unit no longer desire a particular employee organization as their exclusive representative, provided that such petition is supported by current dues deduction authorizations or other evidence such as notarized membership lists, cards, or petitions from 30 percent of the employees in the negotiating unit indicating support for another organization or lack of support for the incumbent exclusive representative.

that it was granted ten calendar days in which to perfect its showing of support. Local No. 1 thereafter obtained a 30 percent showing of support. The regional director then scheduled a decertification election to be held on June 1, 1978.

SEIU first filed an appeal to the Board itself, arguing that Local No. 1 should not appear on the election ballot because its decertification petition is invalid. SEIU argues Local No. 1's showing of support was untimely.

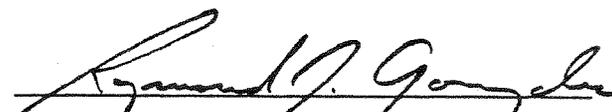
SEIU next filed the present request for a stay of the decertification election until after the Board itself rules on Local No. 1's right to appear on the election ballot.

DISCUSSION

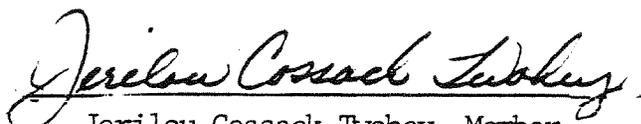
SEIU's first appeal questions the right of Local No. 1 to appear on the decertification election ballot. This issue is central to the election and must be resolved before the election can be held. Therefore, the Board finds it necessary to stay the election pending its resolution of the right of Local No. 1 to appear on the election ballot.

ORDER

The request of the United Public Employees, Local 390, SEIU, AFL-CIO for a stay of the decertification election for a unit of classified employees presently scheduled to be held on June 1, 1978, is granted.


By: Raymond J. Gonzales, Member


Harry Gluck, Chairman


Jerilou Cossack Twohey, Member