

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



OAKLAND SCHOOL EMPLOYEES ASSOCIATION,)
)
Employee Organization,) Case Nos. SF-R-120
APPELLANT,) SF-R-258
) SF-R-273
)
and)
)
UNITED TEACHERS OF OAKLAND,) PERB Order No. Ad-44
LOCAL 771, AFL-CIO,)
) Administrative Appeal
Employee Organization,)
) August 16, 1978
and)
)
OAKLAND UNIFIED SCHOOL DISTRICT,)
)
)
Employer.)
_____)

Appearances: Andrew Thomas Sinclair, Attorney for Oakland School Employees Association; Robert J. Bezemek, Attorney (Van Bourg, Allen, Weinberg and Roger) for United Teachers of Oakland, Local 771, AFL-CIO; Oakland Unified School District made no appearance.

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

DECISION

Oakland School Employees Association (hereafter OSEA) appeals the administrative decision of the executive assistant to the Board¹ to extend the time period allowed for the employee organizations in this case to file showings of employee support which would enable them to appear on the ballots in two classified unit elections.

¹Public Employment Relations Board (hereafter Board).

FACTS

The Board's Oakland Unified School District decision² created three appropriate classified negotiating units - a custodial unit, a kindergarten through grade 12 paraprofessional unit and a children's center paraprofessional unit. The initial order in that decision provided that in order to appear on the election ballots in the custodial unit the employee organizations must demonstrate to the Board at least 30 percent employee support in that unit within 10 workdays after the employer posted the notice of decision. The order erroneously failed to mention the same requirement in connection with the kindergarten through grade 12 and children's center paraprofessional units.

Shortly after the decision was posted, OSEA made an inquiry to the Board regarding when the showing of support was due for the two paraprofessional units. OSEA did not inform the Board of the omission in the order and the Board did not discover it. One day prior to the end of the 10 workday posting period, the Board became aware of the error when United Teachers of Oakland, Local 711, AFL-CIO (hereafter UTO) made a similar inquiry to the Board regarding when the showing of support was due for the two paraprofessional units.

When the error was brought to the attention of the executive assistant to the Board, he issued a revised order which specified that the employee organizations must demonstrate

²(4/14/78) PERB Decision No. 50.

at least 30 percent employee support in the paraprofessional units in order to appear on the election ballots. He also notified the parties that, because of the error, they would have an additional 10 workdays from the date of service of the revised order to file the required support. OSEA protests this extension of time.

UTO qualified for the ballots in both units during the extended filing period. OSEA qualified for the ballot in the kindergarten through grade 12 paraprofessional unit during the 10 workday filing period the first order failed to notice. OSEA failed to qualify for the ballot in the children's center paraprofessional unit.

DISCUSSION

In its appeal of the executive assistant to the Board's decision to allow additional time to file showings of support, OSEA argues that the decision should not have been made ex parte and that OSEA should have been given an opportunity to object. It also argues that UTO could not be prejudiced by the omission in the order because Board rule 33480³ specifies the time within which the showings of interest must be filed.

³Calif. Admin. Code, tit. 8, section 33480, which provides:

Eligibility to Appear on Ballot. Any employee organization which was a party to the representation hearing may appear on the election ballot provided that during the 10 workday posting period of the notice of Board decision the Regional Director is satisfied that the organization has evidenced at least 30 percent support in the unit found to be appropriate by the Board.

The Board dismisses this appeal because it concerns a matter which is not appealable. The Board order was published in incomplete form. The executive assistant to the Board corrected the omission by issuing the revised order and by allowing the parties an additional 10 workdays to demonstrate employee support in the paraprofessional units.

The Board's correction of a mechanical error is a matter of internal Board procedure. Any resulting effect on the parties only remedies the adverse effect of the original omission. A party favored by the omission cannot turn its advantage into a matter of right. And the Board is obligated to restore the rights of the other parties lost through the inadvertance.

Since the Board's correction of its error does not concern the rights of the parties, this matter is not appealable. Since the matter is not appealable, OSEA's arguments which go to the rights of the parties are not relevant.

ORDER

The Public Employment Relations Board ORDERS that:

The appeal from the executive assistant to the Board's decision to extend the time period allowed for the employee organizations to file showings of employee support in two paraprofessional units, is dismissed.

~~By: Raymond J. Gonzales, Member~~

~~Harry Gluck, Chairperson~~

~~Jerilou Cossack Twohey, Member~~ ✓

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RE OAKLAND UNIFIED SCHOOL DISTRICT CASE NUMBERS SF-R-120, 258, 273, PERB DECISION NUMBER 50.
DUE TO INCOMPLETE LANGUAGE REGARDING SHOWING OF SUPPORT IN ABOVE CAPTIONED CASE ON EXTENSION OF 10 DAYS TO DEMONSTRATE REQUISITE SUPPORT IN THE PARAPROFESSIONAL UNIT AND CHILDRENS'S CENTER PARAPROFESSIONAL UNIT TO THE REGIONAL DIRECTOR WILL BE PROVIDED. ADDITIONAL TIME TO RUN FROM DATE OF SERVICE OF ERRATA.

STEVEN BARBER, EXECUTIVE ASSISTANT TO THE BOARD, PUBLIC EMPLOYMENT RELATIONS BOARD, 923 12TH STREET SUITE 201 SACRAMENTO CA 95814

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