



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

BROTHERHOOD OF TEAMSTERS AND AUTO TRUCK)
DRIVERS, LOCAL NO. 70,)
[1] (RR-1002))
[2] (PC-1003))
[3] (RR-1011))
LABORER'S INTERNATIONAL UNION,)
LOCAL 1276, AFL-CIO)
[4] (PC-1004))
[5] (PC-1005))
AMERICAN FEDERATION OF STATE, COUNTY AND)
MUNICIPAL EMPLOYEES, AFL-CIO, LOCAL 371,)
[8] (RR-1006))
PRINTING TRADES ALLIANCE,) Case Nos. (IP-8) SF-PC-1031
[9] (RR-1007)) (IP-7) SF-PC-1033
ALAMEDA COUNTY BUILDING AND CONSTRUCTION) (IP-5) SF-PC-1035
TRADES COUNCIL, AFL/CIO) (IP-14) SF-PC-1037
[10] (PC-1007)) (IP-13) SF-PC-1038
INTERNATIONAL UNION OF OPERATING)
ENGINEERS, STATIONARY ENGINEERS, LOCAL)
NO. 39,) Phase II Professional
[11] (RR-1009)) and Operations
[12] (RR-1010)) Hearings
(JT. PET.) LOCALS 660 AND 535,) (HEERA-UC)
SERVICE EMPLOYEES INTERNATIONAL UNION,)
AFL-CIO) PERB Order No. Ad-100-H
[13] (IP-22) (PC-1010))
[40] (IP-16)) ADMINISTRATIVE APPEAL
LOCAL 660, SERVICE EMPLOYEES)
INTERNATIONAL UNION, AFL-CIO, UNIVERSITY)
DIVISION,) September 29, 1980
[14] (PC-1016))
[15] (PC-1017))
CALIFORNIA STATE EMPLOYEES ASSOCIATION,)
[16] (PC-1011))
[18] (IP-5) (PC-1035))
[19] (IP-6) (PC-1032))
[20] (IP-7) (PC-1033))
[21] (IP-8) (PC-1031))
[23] (IP-11) (PC-1036))
[43] (IP-20))
[46] (IP-25))
AMERICAN FEDERATION OF STATE, COUNTY AND)
MUNICIPAL EMPLOYEES, AFL-CIO)
[24] (PC-1012))
[25] (PC-1018))

[26] (PC-1026))
 [27] (IP-13))
 [28] (IP-14))
 INDEPENDENT TOOL AND DIE CRAFTSMEN,)
 [29] (PC-1013))
 ALAMEDA COUNTY BUILDING AND CONSTRUCTION)
 TRADES COUNCIL, AFL-CIO AND INTERNATIONAL)
 ASSOCIATION OF MACHINISTS AND AEROSPACE)
 WORKERS, BAY AREA DISTRICT LODGE NO. 115,)
 AFL-CIO)
 [31] (PC-1015))
 INTERNATIONAL UNION OF OPERATING)
 ENGINEERS, LOCAL 501,)
 [32] (IP-9) (RR-1012))
 [33] (PC-1022))
 CALIFORNIA NURSES ASSOCIATION)
 [35] (IP-2))
 ENGLISH SECOND LANGUAGE TEACHERS, CFT-AFT)
 [36] (IP-4))
 CALIFORNIA STATE EMPLOYEES ASSOCIATION)
 SOCIETY OF PROFESSIONAL SCIENTISTS AND)
 ENGINEERS,)
 [37] (PC-1023))
 LOS ANGELES COUNTY EMPLOYEES UNION,)
 LOCAL 434, SEIU, AFL-CIO,)
 [38] (IP-3))
 [39] (IP-15))
 [41] (IP-17))
 [45] (IP-21))
 SAN FRANCISCO BUILDING AND TRADES COUNCIL)
 [42] (IP-18))
 UNIVERSITY OF CALIFORNIA ACADEMIC COUNCIL)
 (LIBRARIANS) AFT)
 [44] (IP-19))
 U.C. AFT, AFL-CIO, LOCAL 1990)
 [47] (IP-24))
 U.C. AFT, AFL-CIO, LOCAL 1966)
 [48] (IP-26))
 U.C. AFT, AFL-CIO, LOCAL 2199)
 [49] (IP-27))
 PRINTING TRADES ALLIANCE)
 [50] (IP-28))
 [51] (IP-29))
 LIMITED PARTIES)
 (LP-1) SERVICE EMPLOYEES)
 INTERNATIONAL UNION, AFL-CIO)
 LOCAL 102)
 (LP-2) SERVICE EMPLOYEES)
 INTERNATIONAL UNION, AFL-CIO)
 LOCAL 250.)

(LP-3) WITHDRAWN)
 (LP-4) WITHDRAWN)
 (LP-5) WITHDRAWN)
 (LP-6) U.C. AFT, AFL-CIO, LOCAL 1990)
 (LP-7) ORANGE COUNTY EMPLOYEES)
 ASSOCIATION)
 (LP-8) AMERICAN FEDERATION OF)
 TEACHERS, AFL-CIO, LOCAL 1990)
 (LP-9) AFT, AFL-CIO, LOCAL 1474)
 (LP-10) AFT, AFL-CIO, LOCAL 2141)
 (LP-11) AFT, AFL-CIO, LOCAL 1990)
 (LP-12) AFT, AFL-CIO, LOCAL 2023)
 (LP-13) AFT, AFL-CIO, LOCAL 2026)
 (LP-14))
 (LP-15) PRINTING TRADES ALLIANCE)
 (LP-16) PRINTING TRADES ALLIANCE)
 (LP-17) CSEA)
 (LP-18) CSEA)
 APPLICANTS)
 (IP-24) (RR-1014) AMERICAN)
 FEDERATION OF TEACHERS,)
 AFL-CIO, LOCAL 1990 and)
 LOCAL 1494)
)
 Employee Organizations,)
)
 and)
)
 REGENTS OF THE UNIVERSITY OF CALIFORNIA,)
)
 Employer.)
)

Appearances: Robert J. Bezemek, Attorney (Van Bourg, Allen, Weinberg & Roger) for Service Employees International Union, Locals 434, 535, and 660, and University Council, AFT; Douglas H. Barton, Attorney (Corbett, Kane & Berk) and James N. Odle, Attorney (Deputy General Counsel, University of California) for the Regents of the University of California

Before Gluck, Chairperson; Moore, Member.

DECISION AND ORDER

This case involves the sufficiency of the showings of interest submitted by the American Federation of State, County and Municipal Employees (hereafter AFSCME) and California State

Employees Association (hereafter CSEA) in support of certain applications to participate as parties of interest in the hearings currently being conducted by the Public Employment Relations Board (hereafter PERB or Board) to determine appropriate units among University of California (hereafter University) employees.

Former PERB rule 51220,¹ in effect at all relevant times, required that applications to participate in the University

¹PERB rules are codified at California Administrative Code, title 8, section 31000 et seq.

Former PERB rule 51220 provides:

Participation by Party of Interest. An employee organization may be allowed to participate fully in a representation hearing provided:

(a) It has filed a written application with the regional office not less than ten days prior to the commencement of the hearings; and

(b) The Hearing Officer determines that the organization will not unduly impede the hearing; and

(c) the Hearing Officer determines that the organization has either:

(1) 10 percent support of any unit in dispute at the hearing, or

(2) 10 percent support of a proposed unit which overlaps another unit in dispute at the hearing.

This rule was replaced by PERB rule 32166, effective July 18, 1980.

unit determination hearings as parties of interest be supported by a 10 percent showing of interest among employees in a unit in dispute at the hearing or in a proposed unit which overlapped a unit in dispute at the hearing. Pursuant to this rule, the regional director requested the University to supply lists of employees included in the units proposed by AFSCME (IP-13 and IP-14) and CSEA (IP-5, IP-6, IP-7, and IP-8) so that PERB could check their showings of support. The University indicated that it was unable to produce complete and accurate lists of employees in those proposed units at that time.

Because this failure by the University to provide accurate information made it impossible to check the showings of support under PERB's normal procedures, the regional director checked the showing based on two assumptions: (1) that the number of employees estimated by the party of interest applicant as comprising the claimed appropriate negotiating unit is accurate, and (2) that those persons who have clearly demonstrated their desire to be represented by the party of interest applicant are among those employed in the proposed unit. He determined that AFSCME demonstrated support sufficient to meet the requirements of former PERB rule 51220(c)(2) in its proposed units IP-13 and IP-14 (as amended) and that CSEA failed to demonstrate sufficient support in proposed units IP-5, IP-6, IP-7, and IP-8. The regional director's decision to check the showings of support in the

absence of an employee list, and the procedures he utilized to do so, have been appealed to the Board by Service Employees International Union, Locals 434, 535 and 660, and University Council, AFT.

This is the first case to come before the Board in which an employer has failed to provide a list of employees to enable the Board to check showings of support. We find that the procedures used by the regional director, which comport with the National Labor Relations Board's procedures in the same situation,² were appropriate as applied in this case. The decision of the regional director that AFSCME has met the showing of interest requirements of PERB rule 51220(c)(2) in proposed units IP-13 and IP-14 and that CSEA failed to do so in proposed units IP-5, IP-6, IP-7, and IP-8 is AFFIRMED.

PER CURIAM

²See the National Labor Relations Board Casehandling Manual, Part II, section 11030.1, which covers checking the showings of interest when the employer does not supply an employee list:

If no payroll list has been submitted, the estimate made by the affected union should be used as the number involved and each signer of authorization material should be considered to be employed within the unit claimed.