

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



ALUM ROCK UNION ELEMENTARY)
SCHOOL DISTRICT,)
)
Employer,) Case No. SF-D-129
)
and) Request for Reconsideration
) PERB Order No. Ad-158
TEAMSTERS LOCAL NO. 165,)
) PERB Order No. Ad-158a
Exclusive Representative,)
APPELLANT,) December 30, 1986
)
and)
)
CALIFORNIA SCHOOL EMPLOYEES')
ASSOCIATION,)
)
Employee Organization,)
Petitioner.)

Appearances: Madalyn J. Frazzini, Attorney for California School Employees Association.

Before Burt, Porter, and Craib, Members.

DECISION

BURT, Member: The Public Employment Relations Board (Board), having duly considered the California School Employees Association's (CSEA) request for reconsideration, hereby denies that request.

DISCUSSION

In Alum Rock Union Elementary School District (1986) PERB Order No. Ad-158, the Board¹ determined that a

¹Section 3541(c) of the Educational Employment Relations Act (EERA) codified at Government Code section 3540 et seq.

decertification petition filed by CSEA during a one-month extension of a contract between Alum Rock Union Elementary School District and Teamsters Local No. 165 was untimely and ordered that the petition be dismissed.

Pursuant to PERB Regulation 32410(a)² and EERA section 3541(c), CSEA requests reconsideration by the full Board of PERB Order No. Ad-158, asserting that the decision is contrary to the language of the EERA, ignores prior Board precedent, rejects the federal rule, misconstrues public sector bargaining

states:

The board may delegate its powers to any group of three or more board members. Nothing shall preclude any board member from participating in any case pending before the board.

Pursuant to that section, PERB Order No. Ad-158 was issued by a panel of three, consisting of Members Burt, Porter and Craib. Member Burt authored the majority decision which was joined by Member Craib. Member Porter dissented.

²PERB Regulations are codified at California Administrative Code, title 8, section 31001 et seq. PERB Regulation 32410(a) provides:

Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

and will cause significant delay and disruption of PERB processes. CSEA does not claim that the Board's decision contains prejudicial errors of fact, nor does CSEA assert that there exists newly discovered evidence or law which was not previously available.

CSEA's arguments are reassertions of arguments already considered by the Board. We have previously held that the mere reassertion of legal arguments considered and rejected by the Board in an underlying decision does not constitute "extraordinary circumstances" which justify our granting a request for reconsideration.³ See, e.g., Rio Hondo Community College District (1983) PERB Decision No. 279a; Morgan Hill Unified School District (1986) PERB Decision No. 554a.

Furthermore, as to CSEA's request that the full Board reconsider PERB Order No. Ad-158, we have previously held that, while all members of the Board have the right to participate in any case before it, a party may not require participation by the full Board. Morgan Hill Unified School District, *supra*.

For the above reasons, we find no basis upon which to grant reconsideration.

ORDER

The request for reconsideration in Case No. SF-D-129 is hereby DENIED.

Members Porter and Craib joined in this Decision.

³While still adhering to his dissent, Member Porter nevertheless agrees that Petitioner has failed to show the necessary grounds for granting reconsideration.