

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



MIKE C. OKEREKE,

Charging Party,

v.

UNITED TEACHERS OF LOS ANGELES,

Respondent.

Case No. LA-CO-1241-E

PERB Decision No. 1888

February 27, 2007

Appearances: Mike C. Okereke, on his own behalf; Geffner & Bush by Kathleen M. Erskine, Attorney, for United Teachers of Los Angeles.

Before Duncan, Chairman; McKeag and Neuwald, Members.

DECISION

NEUWALD, Member: This case is before the Public Employment Relations Board (Board) on appeal by Mike C. Okereke (Okereke) to a Board agent's dismissal (attached)¹ of his unfair practice charge. Okereke alleged that the United Teachers of Los Angeles (UTLA) violated the Educational Employment Relations Act (EERA)² by breaching its duty of fair representation when it failed to file grievances and adequately represent him when he received an "Inadequate Service Report" from the Los Angeles Unified School District.

The Board has reviewed the entire record including the unfair practice charge, the warning and dismissal letters, Okereke's appeal, and UTLA's response to the appeal. The Board finds the dismissal and warning letters to be free of prejudicial error and adopts them as the decision of the Board itself.

¹The Board is not attaching faxed letters referenced in dismissal letter.

²EERA is codified at Government Code section 3540, et seq.

DISCUSSION

On appeal, Okereke presents new charge allegations and new supporting evidence that were not previously presented and that were known to Okereke when he filed his unfair practice charge. PERB Regulation 32635(b)³ precludes a charging party from raising new charge allegations or new supporting evidence on appeal without good cause. Okereke has failed to demonstrate good cause for the presentation of new allegations and/or supporting evidence on appeal, and nothing in the documents filed, related to the appeal, indicates good cause.

ORDER

The unfair practice charge in Case No. LA-CO-1241-E is hereby **DISMISSED WITHOUT LEAVE TO AMEND.**

Chairman Duncan and Member McKeag joined in this Decision.

³PERB regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3530 Wilshire Blvd., Suite 1435
Los Angeles, CA 90010-2334
Telephone: (213) 736-3008
Fax: (213) 736-4901



September 1, 2006

Mike C. Okereke

Re: Mike C. Okereke v. United Teachers of Los Angeles
Unfair Practice Charge No. LA-CO-1241-E
DISMISSAL LETTER

Dear Mr. Okereke:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on July 14, 2006. You allege that the United Teachers of Los Angeles (UTLA) violated the Educational Employment Relations Act (EERA)¹ by failing to meet their duty of fair representation.

I indicated to you in my attached letter dated August 21, 2006, that the above-referenced charge did not state a prima facie case. You were advised that, if there were any factual inaccuracies or additional facts which would correct the deficiencies explained in that letter, you should amend the charge. You were further advised that, unless you amended the charge to state a prima facie case or withdrew it prior to August 31, 2006, the charge would be dismissed.

On August 23, 2006, you called me to discuss my August 21, 2006 letter and you provided the following information:

You stated UTLA did not do everything they could to help you. You stated that in May 2006, when you made a complaint to LAUSD Official Mr. Isaac, UTLA Representative Paula Parr would not give you or Mr. Isaac proof that the ISR was rescinded and if she would have given the paperwork to Mr. Isaac, Mr. Isaac would have gotten your job back for you. You cannot understand why Ms. Parr did not show Mr. Isaac the paperwork. You also cannot understand why Roger, the person at UTLA you spoke to on the phone after the April 2005 incident that resulted in your Belvedere ISR, did not tell you to file a grievance.

You stated LAUSD Official Mr. Fisher blocked the ISR from being rescinded and Ms. Parr should not have allowed him to block the rescission. You stated that Mr. Fisher is central to this charge and that information regarding your Locke High School ISR is also integral. To that extent you faxed me a copy of a December 2, 2005 letter you presented to Dr. Wells,

¹ EERA is codified at Government Code section 3540 et seq. The text of the EERA and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

Locke High School Principal, as evidence of what UTLA should have done to get your Belvedere ISR rescinded. The letter, which I have attached, reads:

Dear Dr. Wells,

As per my meeting with you yesterday, 12/01/05, I am hereby giving you the reasons why the said "Inadequate Service Report," written by Ms. Juaregui, should be rescinded:

1. The contents in that Report have been used to terminate my job. That is not fair.
2. I made the call to refuse that day's assignment in a very timely manner, unfortunately, the individual who I made the call to, Ms. Divinity, did not relay the message to school authorities in a timely manner. This is clearly not my fault.
3. Mr. Thymes, angry at me first – with the thought that I did not make any call – now compliments me for taking the time to do so, and feels that my actions, the totality of them, do not rise to the level of being written up, especially in such a vitriolic language.
4. There is no need to loose [sic] my job because of something as least understood as this.
5. I have subbed at Locke High School before, there were absolutely no incidents.
6. Ms. Juaregui wrote the report in apparent anger, without mulling things over.

Sincerely,
Mike C. Okereke
[identification number]

NB:

I will like to use this opportunity to once gain [sic] flag up my interest for that Math Teacher position. As previously indicated, I am subject matter qualified for the position in question.

A handwritten notation at the bottom of the letter states "Ok'd by Dr. Wells, Principal, 12/8/05." You told me Mr. Fisher talked to Dr. Wells but Dr. Wells lied and denied the ISR had been rescinded. You told me Mr. Fisher hates you and you do not trust him and you relayed this information to Mr. Isaac. You also stated that Mr. Fisher has no authority to uphold the write up and you question who upheld it.

You also stated Ms. Parr should have argued to the District that your record with the District has nothing to do with the ISR, since Mr. Fisher said the ISR was immaterial to the decision to terminate you, and therefore the ISR should have been rescinded.

On August 28, 2006, you called me and we talked on August 29, 2006. You again discussed the issues and told me you would put an amended charge in writing. On August 31, 2006, you left me a voice mail indicating you would be faxing me an amended charge and that you would be delivering a copy to UTLA. I have attached a copy of your faxed letter which I take to constitute your amended charge. In your faxed letter you raised the following issues:

You state that Ms. Parr wrongfully refused to put in writing the name of the LAUSD official who stated that even if the Belvedere ISR were removed from your file, you would not be rehired.

You state that Ms. Parr should have jumped at the opportunity to remove the ISR when LAUSD Official Mr. Vidaurrazaga agreed to remove the ISR but that she did not because Mr. Fisher advised her against removing the ISR and he told her it was immaterial to whether you would be rehired. You state that Ms. Parr should have gone ahead in removing the ISR and should have told Fisher that your District record had nothing to do with the Belvedere ISR. You complain that Ms. Parr caved into pressure, was not aggressive or persuasive enough in protecting your interest and failed deliberately and miserably in her duty to represent you.

You state that Ms. Parr did not tell you about the March 10, 2006 memo she wrote to Mr. Vidaurrazaga and that if she had told you about it, you would have had the proof you needed to show Mr. Isaacs that the Belvedere ISR amounted to nothing.

You state that even though you told UTLA Representatives Lydia Laurans, Terry Skotnik and Ms. Parr about the Locke ISR and that Locke Principal Dr. Wells "Ok'd" the removal of your Locke ISR, they did not broach the subject or ask you how the ISR issue was progressing.

You state that you called UTLA Representative Mr. Duffy many times but he chose to ignore you.

You state that Mr. Fisher stated the Locke ISR was not removed properly and "[h]e was delegated by Mr. Isaacs to see to the official removal. In the process, Mr. Fisher talked to Dr. Wells" and "Dr. Wells is now telling a totally different story" and "flatly lied about ever meeting with me." Mr. Braxton, LAUSD Official and supervisor of Dr. Wells, assured you that he will begin the process of rescinding the Locke ISR. You state that Mr. Fisher's dirty hands and sabotaging influences are written all over this and UTLA should not stand idly by. You state I must also contact Mr. Braxton to authenticate your claim.

Discussion

In determining whether the charging party has stated a prima facie case, the Board Agent must credit the charging party's allegation of facts over those of other parties. (San Juan Unified School District (1977) EERB Decision No. 124; Golden Plains Unified School District (2002) PERB Decision No. 1489.)

The fact that in May 2006, Ms. Parr did not give you or Mr. Isaac proof that the Belvedere ISR was rescinded does not appear to be arbitrary, discriminatory or bad faith conduct since she informed you by memorandum dated April 6, 2006 that the District was not willing to remove the ISR. Also, your allegation that Ms. Parr should have "jumped at that opportunity" when LAUSD Official Mr. Vidaurrazaga agreed to remove the ISR, fails to show arbitrary, discriminatory or bad faith conduct since Ms. Parr, a union representative and not a LAUSD representative, does not have the authority to remove ISRs. Similarly, the fact that Ms. Parr, who made several requests that the District remove your Belvedere ISR, did not fight as hard as you would have liked her to in order to persuade Mr. Fisher to rescind the Belvedere ISR or the fact that she did not share with you the identity of the LAUSD official that stated the Belvedere ISR was immaterial since you would not be employed by LAUSD regardless, does not show arbitrary, discriminatory or bad faith conduct. Likewise, your allegation that Laurans, Skotnik, Parr and Duffy ignored you and/or your Locke ISR does not show arbitrary, discriminatory or bad faith conduct since Mr. Fisher made it clear on or about January 20, 2006, that the ISR would not be removed, and, since no grievance had been filed, UTLA had no basis on which to request the ISR be removed.

Finally, taking your allegations as true and assuming Dr. Wells is lying when he denies that he "Ok'd" the removal of your Locke ISR and that Mr. Fisher has unclean hands, the allegation fails to demonstrate UTLA's conduct was arbitrary, discriminatory or in bad faith. Since none of the information you added in your faxes or by telephone demonstrates that UTLA's conduct was arbitrary, discriminatory or in bad faith, I am dismissing the charge based on the facts and reasons contained here and in my August 21, 2006 letter.

Right to Appeal

Pursuant to PERB Regulations,² you may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal. (Regulation 32635(a).) Any document filed with the Board must contain the case name and number, and the original and five (5) copies of all documents must be provided to the Board.

A document is considered "filed" when actually received during a regular PERB business day. (Regulations 32135(a) and 32130; see also Government Code section 11020(a).) A document is also considered "filed" when received by facsimile transmission before the close of business together with a Facsimile Transmission Cover Sheet which meets the requirements of Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Regulations 32135(b), (c) and (d); see also Regulations 32090 and 32130.)

The Board's address is:

² PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95814-4174
(916) 322-8231
FAX: (916) 327-7960

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal. (Regulation 32635(b).)

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Regulation 32140 for the required contents.) The document will be considered properly "served" when personally delivered or deposited in the mail or deposited with a delivery service and properly addressed. A document may also be concurrently served via facsimile transmission on all parties to the proceeding. (Regulation 32135(c).)

Extension of Time

A request for an extension of time, in which to file a document with the Board itself, must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of

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each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party. (Regulation 32132.)

Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Sincerely,

ROBIN WESLEY
Acting General Counsel

By _____
Mary Creith
Regional Attorney

Attachments

cc: Kathleen Erskine, Attorney

PUBLIC EMPLOYMENT RELATIONS BOARD

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August 21, 2006

Mike C. Okereke

Re: Mike C. Okereke v. United Teachers of Los Angeles
Unfair Practice Charge No. LA-CO-1241-E
WARNING LETTER

Dear Mr. Okereke:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on July 14, 2006. You allege that the United Teachers of Los Angeles (UTLA) violated the Educational Employment Relations Act (EERA)¹ by failing to meet their duty of fair representation.

You were a Substitute Teacher employed by the Los Angeles Unified School District (District). The District and UTLA are parties to a collective bargaining agreement (CBA) effective 2003-2006.

On April 20, 2005, the District issued an Inadequate Service Report (ISR) because of your performance at Belvedere Middle School. The same day, you contacted UTLA and spoke with Roger who told you to fax him a write-up of what led to the ISR. Roger stated he would get in touch with you. During your conversation with Roger, he never told you to file a grievance and he never contacted you again.²

You faxed your write-up to Roger which you labeled "Incident on 4/20/05." You stated you showed algebra and science videos to your class because you could not locate the lesson plan. You also stated that you have a tendency to "nod off" when watching videos so you walk around to combat sleepiness. You walked out of the classroom to get a drink of water and when you returned the Teacher's Aide chastised you in front of the class. You asked her to leave and she did. Then the Principal and two Assistant Principals came into the class and then left without identifying themselves. You then stated in your write-up:

My hunch as to why these high profile members of that school community came into my class that quickly and hastily must have

¹ EERA is codified at Government Code section 3540 et seq. The text of the EERA and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

² Paula Parr told you during a phone conversation on or about April 8, 2006 that the representative to whom you sent your document labeled "Incident on 4/20/05," "had cancer, or something to that effect."

something to do with race. There is a built-in, rarely talked-about mentality in our country, that a White woman, when making a claim against a Black man, or any person of color, for whatever reason, - is always initially believed, unless thoroughly investigated or proven otherwise. This is what I like to refer to as the "Susan Smith" syndrome....If the aide in the present situation were a Black woman, and the sub a Black man, as in the present case, the principal and his two assistants would not have come into the class that hurriedly [sic].

You stated the ISR should be thoroughly investigated and that the write-up also "serves as a complaint against this teacher's aide." You concluded with an apology for leaving the class unattended but you also wrote that the aide "should get punished for her brazen and temperamental behavior of disrupting my class."

On April 20, 2005, you met with Vince Carbino, Principal of Belvedere Middle School.

On April 22, 2005, Mr. Carbino wrote a an Inter-Office Correspondence to you "to memorialize the 'Step One' Conference conducted in my office at your request on April 20, 2005." The correspondence stated Mark Thompson, Assistant Principal, issued an ISR over your performance as a substitute teacher. It also guided you to actively supervise pupils at all times, to cease nodding off in class and to remain in the class room at all times when pupils are present. Mr. Carbino concluded the correspondence by stating: "Based upon the above information and the statements you have provided, I concur with the Notice of Inadequate Service and decline to provide remedy or relief."

In or around late April or June 2005, Paula Parr received a copy of Mr. Carbino's April 22, 2005 correspondence. She checked your file and found no record that a grievance had been filed despite the fact that Mr. Carbino's correspondence referenced a Step One meeting. She then contacted David Vidaurazaga, District Office of Staff Relations, to find out why neither he nor her had been at the Step One meeting. Ms. Parr told Mr. Vidaurazaga that she had not yet received a copy of the ISR and asked if Mr. Vidaurazaga could pull it from your file and Mr. Vidaurazaga said he would work on removing it.

Sometime after April 20, 2005, the District issued another ISR because of your performance at Locke High School. You state that although UTLA "dragged [their] feet in pursuing the ISR" you met with the Principal and the District "rescinded the unwarranted write-up."

In November 2005, the District terminated your employment because you had two ISRs in your personnel record.³ According to your charge, "[t]hat was when I woke up."

³ Although you successfully had the Locke High School ISR removed, a third ISR apparently existed along with the Belvedere ISR so that you still had two ISRs on file as of November 2005.

On or about December 8, 2005, you contacted UTLA for the first time since talking to Roger in April 2005. You spoke with Lydia Laurans, UTLA Area Representative, because you were told she handles ISRs involving substitute teachers. You spoke with her about the Belvedere ISR. Ms. Laurans arranged to meet you on December 12, 2005, however, she became ill and failed to appear at the appointment and failed to give you any advance notice that the appointment would be cancelled. At that point, you were able to speak with Carl Joseph who told you to speak with Ms. Parr. You sent a copy of the Belvedere ISR to Ms. Parr.

On December 15, 2005, Ms. Parr wrote to Mr. Vidaurazaga and stated you received an ISR at Belvedere in April 2005, no grievance was filed but a Step One meeting was held between you and Mr. Carbino and she asked if the ISR could be removed if you agreed not to substitute at Belvedere.

On January 18, 2006, Ms. Parr noted on her copy of her December 15, 2005 memorandum to Mr. Vidaurazaga that "David V. says Inadequate [ISR] will be pulled."

On or about January 18, 2006, Ms. Parr told you the ISR had been removed from your file. You then asked Ms. Parr to report this information to Robert Fisher and she promised she would.

On or about January 20, 2006, Mr. Vidaurazaga told Ms. Parr that she should speak to Robert Fisher because the District decided not to remove the ISR. Ms. Parr contacted Mr. Fisher and he stated that due to your history of belligerent behavior and bad temper, the ISR would not be removed. He further stated that, in order to be reinstated, you should file a request for reinstatement. Mr. Fisher indicated that the issue of the removal of the Belvedere ISR was not material to whether you would be able to work at the District as a substitute teacher.

On or about March 6, 2006, you requested an Administrative Review and the committee informed you the ISR had not been removed from your file. You called Ms. Parr and asked her why she had not conveyed the information to Mr. Fisher that the ISR was removed. Ms. Parr apologized and assured you she would do it immediately.

On March 10, 2006, Ms. Parr wrote a memo to Mr. Vidaurazaga stating:

Mr. Okereke informs me that Robert Fisher indicated that he has no knowledge of the Inadequate Service Report from Belvedere being pulled. Would you please send Robert Fisher something in writing. Also, could you send me something in writing indicat[ing] this inadequate service report has been pulled?
Thank you.

On or about March 13, 2006, you contacted Ms. Parr and asked if she had conveyed the information to Mr. Fisher. Ms. Parr told you that District officials informed her that you would not be rehired as a substitute teacher even if the ISR were removed. You asked Ms. Parr to

identify the District official that said this and she refused. You allege this conduct amounts to an unnecessary "politicization" of ISRs.

On April 6, 2006, Ms. Parr sent you a memorandum stating you did not file a grievance over the Belvedere ISR and, therefore, she had no legal leverage to get the ISR removed from your file. Ms. Parr also indicated the District was willing to remove the ISR from your file but had second thoughts and probably will not remove the ISR.

CBA Article V, Grievance Procedure, states:

1.0 Grievance and Parties Defined: A grievance is defined as a claim that the District has violated an express term of this Agreement and that by reason of such violation the grievant's rights under this Agreement have been adversely affected. Grievances as defined may be filed by the affected employee or by UTLA on its own behalf or on behalf of an individual employee or group of employees where the claims are similar....

1.1 All matters and disputes, which do not fall within the above definition of a grievance, are excluded from this procedure, including but not limited to those matters for which other methods of adjustment are provided, such as reductions in force and dismissals. Also excluded from this grievance procedure are those matters so indicated elsewhere in this Agreement. Claimed violations of Article VII (Non-Discrimination), are to be handled under appropriate statutory and/or judicial procedures rather than under this grievance procedure; however, claims of discrimination based upon UTLA affiliation are subject to this grievance procedure.

...

8.0 Step One: A formal grievance must be filed within fifteen (15) days (as defined in Section 6.0) after the grievant or UTLA knew or reasonably should have known of the occurrence of the facts upon which the grievance is based.

CBA Article VII, Non-Discrimination, states:

1.0 Pursuant to applicable Federal and State laws, the District and UTLA agree not to discriminate against any employee based upon race, color, religion, creed, national origin, gender, age, marital status, sexual orientation, disability, or political or UTLA affiliation, and to have due regard for employees' privacy and constitutional rights as citizens.

On or about April 6, 2006, you attempted seven times each to contact Terry Skotness, UTLA Director of Organizational Services, and A. J. Duffy, UTLA President. Duffy never called you back but Mr. Skotness called you back after about one week. You told your story to Mr. Skotness and he told you he would look into it, however, it appears to you that he is not going to do anything to help you.

On or about April 8, 2006, you wrote to Ms. Parr and stated, among other things, that you could see why Ms. Parr would be very reluctant as a white woman to push hard for the removal of the ISR, given its content.

You contend that what happened at Belvedere did not rise to the level of you losing your job and UTLA was derelict in their duty to represent you from the outset.

Discussion

You have alleged that the exclusive representative denied Charging Party the right to fair representation guaranteed by EERA section 3544.9 and thereby violated section 3543.6(b). The duty of fair representation imposed on the exclusive representative extends to grievance handling. (Fremont Teachers Association (King) (1980) PERB Decision No. 125; United Teachers of Los Angeles (Collins) (1982) PERB Decision No. 258.) In order to state a prima facie violation of this section of EERA, Charging Party must show that the Respondent's conduct was arbitrary, discriminatory or in bad faith. In United Teachers of Los Angeles (Collins), the Public Employment Relations Board stated:

Absent bad faith, discrimination, or arbitrary conduct, mere negligence or poor judgment in handling a grievance does not constitute a breach of the union's duty. [Citations omitted.]

A union may exercise its discretion to determine how far to pursue a grievance in the employee's behalf as long as it does not arbitrarily ignore a meritorious grievance or process a grievance in a perfunctory fashion. A union is also not required to process an employee's grievance if the chances for success are minimal.

In order to state a prima facie case of arbitrary conduct violating the duty of fair representation, a Charging Party:

". . . must at a minimum include an assertion of sufficient facts from which it becomes apparent how or in what manner the exclusive representative's action or inaction was without a rational basis or devoid of honest judgment. (Emphasis added.)" [Reed District Teachers Association, CTA/NEA (Reyes) (1983) PERB Decision No. 332, p. 9, citing Rocklin Teachers Professional Association (Romero) (1980) PERB Decision No. 124.]

With regard to when “mere negligence” might constitute arbitrary conduct, the Board observed in Coalition of University Employees (Buxton) (2003) PERB Decision No. 1517-H that, under federal precedent, a union’s negligence breaches the duty of fair representation “in cases in which the individual interest at stake is strong and the union’s failure to perform a ministerial act completely extinguishes the employee’s right to pursue his claim.” (Quoting Dutrisac v. Caterpillar Tractor Co. (9th Cir. 1983) 749 F.2d 1270 [113 LRRM 3532], at p. 1274; see also, Robesky v. Quantas Empire Airways Limited (9th Cir. 1978) 573 F.2d 1082 [98 LRRM 2090].)

EERA section 3541.5(a)(1) prohibits PERB from issuing a complaint with respect to “any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge.” The limitations period begins to run once the charging party knows, or should have known, of the conduct underlying the charge. (Gavilan Joint Community College District (1996) PERB Decision No. 1177.) The statute of limitations is an affirmative defense which has been raised by the respondent in this case. (Long Beach Community College District (2003) PERB Decision No. 1564.)

Here, UTLA, acting through Roger, asked you in April 2005 to submit a write-up describing the events that led up to your Belvedere ISR. In your more than two page write-up labeled “Incident on 4/20/05,” you detailed the incident that led to your ISR, you alleged the incident was racially motivated, you stated the ISR should be “thoroughly investigated” and that the write-up also “serve[d] as a complaint against this teacher’s aide.” Since claims of discrimination and claims against co-worker’s conduct are not grievable, the fact that Roger did not file a grievance was rationally based. At about the same time, Paula Parr contacted Mr. Vidaurazaga and asked him to pull your ISR in June 2005 after the District notified her that you had a “Step One” meeting. Moreover, even if Roger’s and/or Ms. Parr’s actions denied your right to fair representation, their conduct occurred in April 2005 which is more than six months prior to your filing of this charge on July 14, 2006, and therefore PERB is prohibited from issuing a complaint regarding UTLA’s actions or inaction in April and May 2005.

To the extent your allegations concern UTLA’s conduct occurring in the six months prior to July 14, 2006, the information demonstrates that Ms. Parr tried two more times to have your ISR removed and she finally told you on April 6, 2006 that she would not make the request any more because although the District was willing to remove the report from your file at one time, “the District has had second thoughts and probably won’t remove the report. There is nothing I can do about the situation.” She explained that since you did not file a grievance, she had no legal leverage to have the ISR removed. Nothing in the information you provide demonstrates that UTLA’s conduct was arbitrary, discriminatory or in bad faith and therefore, your charge will be dismissed.

For these reasons the charge, as presently written, does not state a prima facie case. If there are any factual inaccuracies in this letter or additional facts that would correct the deficiencies explained above, please amend the charge. The amended charge should be prepared on a standard PERB unfair practice charge form, clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must have the case number written on the top right hand

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corner of the charge form. The amended charge must be served on the respondent's representative and the original proof of service must be filed with PERB. If I do not receive an amended charge or withdrawal from you before August 31, 2006, I shall dismiss your charge. If you have any questions, please call me at the above telephone number.

Sincerely,

Mary Creith
Regional Attorney

MC