



**STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD**

VICTOR THRASH,

Charging Party,

v.

SERVICE EMPLOYEES INTERNATIONAL  
UNION LOCAL 99,

Respondent.

Case No. LA-CO-1779-E

PERB Decision No. 2727

May 28, 2020

Appearances: Victor Thrash, on his own behalf; Rothner, Segall & Greenstone by Jonathan Cohen, Attorney, for Service Employees International Union Local 99.

Before Banks, Shiners, and Paulson, Members.

DECISION<sup>1</sup>

PAULSON, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal from a dismissal issued by PERB's Office of the General Counsel (OGC). Victor Thrash (Thrash), a school bus driver for Los Angeles Unified School District (LAUSD or District), filed the underlying unfair practice charge against Service Employees International Union Local 99 (SEIU), the union that exclusively represents District employees in specified classifications, including Thrash. The charge alleged that SEIU violated the Educational Employment Relations Act

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<sup>1</sup> Subdivision (d) of PERB Regulation 32320, as amended effective April 1, 2020, permits a majority of Board members issuing any decision or order to designate all or part of such decision or order as non-precedential. Based on all relevant circumstances, including the criteria set forth in Regulation 32320, subdivision (d), we designate the instant decision as non-precedential. (PERB Regulations are codified at Cal. Code Regs., tit. 8, § 31001 et seq.)

(EERA)<sup>2</sup> by declining to pursue a grievance against the District when Thrash was not allowed to bid on a Fall 2019 bus route. Specifically, SEIU filed a related grievance on Thrash's behalf, but declined to move the grievance to the next step of the process after learning that LAUSD requested additional documents from Thrash that he failed to provide. Thrash contends the parties' Collective Bargaining Agreement (CBA) required SEIU to pursue this grievance on his behalf and that SEIU's decision not to pursue the grievance violated the duty of fair representation.

OGC dismissed the charge for failing to state a prima facie case. OGC found that Thrash failed to plead facts that, if proven, would show that SEIU's decision was arbitrary, discriminatory, or in bad faith. OGC further noted that the parties' CBA provided Thrash the right to file a grievance on his own behalf, meaning SEIU's actions did not prevent Thrash from pursuing grievances on his own. Thrash timely appealed the dismissal to the Board itself.<sup>3</sup>

In resolving an appeal of a dismissal, we review OGC's decision de novo. (*City and County of San Francisco* (2020) PERB Decision No. 2712-M, p. 2.) The Board has reviewed the record and the parties' arguments. We agree that Thrash's charge does not allege facts stating a prima facie case that SEIU violated EERA. We therefore affirm OGC's dismissal of the unfair practice charge.

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<sup>2</sup> EERA is codified at Government Code section 3540 et seq.

<sup>3</sup> Thrash also filed an amended appeal after the filing deadline without explanation. Though PERB Regulation 32136 provides that a late filing may be excused in the discretion of the Board for good cause, where a party provides no justification for his or her late filing, the Board is precluded from finding that good cause exists. (*California State Employees Association* (1999) PERB Order No. Ad-299-S, p. 3.) The Board therefore does not accept Thrash's late filed amended appeal.

ORDER

The unfair practice charge in Case No. LA-CO-1779-E is DISMISSED  
WITHOUT LEAVE TO AMEND.

Members Banks and Shiners joined in this Decision.