

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD WATTS,)
)
 Complainant,) Case No. LA-PN-22
)
 v.)
)
 LOS ANGELES COMMUNITY COLLEGE)
 DISTRICT,) PERB Decision No. 155
)
 Respondent,)
)
 and)
)
 CALIFORNIA SCHOOL EMPLOYEES)
 ASSOCIATION,) December 31, 1980
)
 Respondent.)
)
 _____)

Appearances: Howard Watts, representing himself;
Mary L. Dowell, Associate General Counsel, representing the
District.

Before Gluck, Chairperson; Moore, Member.

DECISION

Howard Watts excepts to the attached administrative determination issued by the Los Angeles Regional Director dismissing his public notice complaint without leave to amend. After considering the entire record in light of the exceptions, the Board affirms the Regional Director's findings and conclusions and administrative determination.

ORDER

Upon the foregoing decision and the entire record in this case, the Public Employment Relations Board ORDERS that:

The public notice complaint, LA-PN-22, filed by Howard Watts against the Los Angeles Community College District and the California School Employees Association is hereby DISMISSED in its entirety without leave to amend.

PER CURIAM

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3550 Wilshire Blvd., Suite 1708
Los Angeles, California 90010
213) 736-3127



October 6, 1980

Mr. Howard O. Watts

Re: LA-PN-22
LETTER OF DISMISSAL

Dear Mr. Watts:

This is a LETTER OF DISMISSAL issued pursuant to PERB Regulation 37030(e) regarding your public notice complaint received in this office on February 22, 1980. The complaint was filed against the Los Angeles Community College District (LACCD) and the California School Employees Association (CSEA) and alleges violation of Government Code section 3547 (a), (b), (c), (d) and (e) (see attachment).

In support of your complaint you submitted several documents including: LACCD board agenda for January 23, 1980, board minutes for January 23 and February 13, 1980, a copy of LACCD's initial proposal procedure dated September 12, 1979, LACCD's initial proposal for the technical-clerical unit and amendments to the agreement between LACCD and CSEA.

A notice of informal conference was served on the parties on May 27, 1980. On June 6, 1980, CSEA filed an answer to the public notice complaint. The answer denied that any violations of Government Code section 3547 had occurred and requested the complaint be dismissed. On July 9, 1980 respondent LACCD filed a letter and exhibits with the PERB. The letter provided information relative to the alleged violations and requested the complaint be dismissed without leave to amend. The informal conference was held on June 20, 1980. No resolution was reached.

On July 14, 1980 your request to place this complaint in abeyance until September 15, 1980 was granted by the Los Angeles Regional Director. A further extension until October 5, 1980 was requested by you and granted.

Allegation 1

On February 13, 1980 LACCD failed to provide the public full opportunity to speak on CSEA's initial proposal by implementing a rule which limited the public's right to express itself. The Board's rule is Article V "Communications to the Board" as amended on January 23, 1980.

PERB Regulation 37020 (5) provides that a complaint shall contain a clear and concise statement of the facts which are alleged to constitute a violation of Government Code section 3547. Your complaint fails to allege any facts in support of the allegation, therefore, allegation 1 is dismissed with leave to amend.

Allegation 2

Copies of CSEA's initial proposal were not available in the board room on January 23, 1980, the date for public presentation and February 13, 1980, the date for public response.

The Government Code requires that all initial proposals be presented at a public meeting and thereafter, become public records. You have not alleged a violation of either of these provisions. In fact, it was your indication at the informal conference that you did receive a copy of the proposal prior to its presentation. You further stated that you have never been denied a copy of any proposal.

The complaint fails to state and cannot be amended to state a prima facie violation of section 3547, therefore allegation 2 is dismissed without leave to amend.

Allegation 3

CSEA addressed the Board of Trustees without appearing on a speakers' list.

Section 3547 states that initial proposals shall be presented at a public meeting of the public school employer. Nothing in the statute or in the PERB Regulations defines how a school board meeting shall be regulated. The regulation of those meetings is left to the discretion of the local school board. Since the substance of allegation 3 does not fall within the purview of section 3547, allegation 3 is dismissed without leave to amend.

If you choose to amend allegation 1, the amended complaint must be received at this office within 10 days after service of this decision. If, in the alternative, you choose to appeal the dismissal you may do so within 10 days following the date of service of the LETTER OF DISMISSAL. Such an appeal must be in writing and must be filed with the Board itself at the headquarters office in accordance with the provisions of Division I, Chapter 4, Article 2 of the PERB Regulations. If no amended complaint or appeal of the dismissal is filed within the specified time limits, this dismissal will become final.

Very truly yours,

Frances A. Kreiling
Regional Director

Patricia Hernandez
Senior Representative

PH:bw

cc: Mary L. Dowell

Marjorie A. Kenton

Government Code section 3547

(a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

(d) New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.