

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-33
)
 v.) PERB Decision No. 181
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) November 19, 1981
)
 and)
)
 CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION,)
)
 Respondents.)
)
 _____)

Appearances: Howard O. Watts, representing himself.
Before Gluck, Chairperson; Jaeger and Tovar, Members.

DECISION

Howard O. Watts appeals a dismissal without further leave to amend of his public notice complaint filed pursuant to section 3547 of the Educational Employment Relations Act.¹

¹The Educational Employment Relations Act is codified at Government Code section 3540 et seq. Section 3547 reads in pertinent part:

(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

Upon consideration of the entire record in light of the exceptions, the Public Employment Relations Board (hereafter Board) finds no reversible error in the regional director's findings of fact or conclusions of law (attached). Further, the Board notes that although his complaint includes an allegation that the Los Angeles Unified School District's (hereafter District) distribution of twenty copies of the employee organization's proposals is inadequate, Mr. Watts' Exhibit No. 5² is a stipulation between the District and himself which includes an agreement to the distribution of that number of copies.

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.

²Exhibit No. 5 is a settlement agreement arising out of an earlier public notice complaint filed by Mr. Watts (Watts v. Los Angeles Unified School District, LA-PN-9 and LA-PN-10), which reads in pertinent part:

Each exclusive representative shall provide a reasonable number of copies, not to exceed 20, of its initial proposals at the time the exclusive representative presents its proposals to the District. These copies shall be made available to the public at the Board meeting at which the proposals are presented.

The Board summarily AFFIRMS the regional director's determination to dismiss the complaint without further leave to amend.

PER CURIAM

PUBLIC EMPLOYMENT RELATIONS BOARD



Angeles Regional Office
0 Wilshire Blvd., Suite 1708
Angeles, California 90010
3) 736-3127

June 18, 1981

Mr. Howard O. Watts

Re: IA-PN-33
Los Angeles Unified School District

Dear Mr. Watts:

Your public notice complaint against the Los Angeles Unified School District and the California School Employees Association was filed with this office May 20, 1981. On May 28, 1981 the complaint was dismissed with leave to amend. On June 8, 1981 this office received your amendment to the complaint and several additional exhibits.

The regional director has determined that the complaint as amended fails to state a prima facie violation of Government Code section 3547. The complaint is hereby **DISMISSED WITHOUT FURTHER LEAVE TO AMEND**. The basis for the dismissal is contained in my letter of May 28, 1981 and the following.

A. You have complained that the CSEA initial proposal and request to meet and negotiate on a potential layoff of certain LAUSD employees were not properly "sunshined". The statements on pages 2 through 4 of the amendment to your complaint, however, confirm that both were presented by CSEA at a public meeting of the LAUSD Board of Education on April 21, 1981. This presentation was scheduled on the Board of Education meeting agenda for that date. That the request to negotiate on the possible layoff was not physically incorporated in the CSEA initial proposal is of no significance. The respondents have complied with the law.

B. Your statement of facts regarding the number and availability of copies of the initial proposal and request to negotiate regarding the layoff still does not establish a prima facie case against the respondents. Your amended complaint confirms that at least 20 copies of each were available and distributed to the public on April 21. You received a copy at that time.

You complain again that copies of the initial proposal were not available in the meeting room on the dates scheduled for public response. I once again direct your attention to prior determinations of the PERB Board itself on this issue, particularly their Decisions No. 151 and No. 153.

Your effort to expand the complaint by adding a wish for more publicity and wider distribution of initial proposals (paragraphs numbered 1 and 2 on page 1 of the amendment) does not allege sufficient facts to state a prima facie violation of section 3547. Section 3547 of the Government Code requires that initial proposals, once submitted, be maintained as public records. The LAUSD retains public inspection copies of all initial proposals in its Staff Relations and Public Information files. This policy complies with the law.

C. The amendment to your complaint regarding the order of business on the LAUSD meeting agenda is confusing. You have filed a complaint with this agency, but state in it that "this is a local violation not pertaining to PERB". You further state the problem has been corrected. In a telephone conversation on June 15, 1981 you and I discussed the complaint generally and this issue in particular. You stated that you did not wish to withdraw this portion of the complaint. It is, then, dismissed with the rest of the complaint. The amendment added no new facts which could constitute a violation of section 3547.

D. The amendment to your complaint regarding the three minute rule for speakers narrows its focus to events on April 21, 1981. It was on this date that the initial proposal was first presented. Section 3547(b) provides the public must have an opportunity to express itself regarding an initial proposal once a reasonable time has elapsed after the proposal is submitted. In that the proposal was submitted only on April 21, public response on that date would have been premature. Following its own policy, the district scheduled time for public response on April 27 and May 4, 1981. You spoke to the proposal on both of those dates. You have not complained of inadequate time for response on either April 27 or May 4, 1981.

It appears from the language of the amendment that you are uncertain about whether or not you spoke to the proposal on April 21, 1981. You have not alleged that you were denied an opportunity to speak, only that you "must've" exhausted the allotted three minutes speaking to other matters on the agenda. Even if you did not speak to the proposal on April 21, as you speculate, the complaint is still insufficient to make a prima facie case, based on the facts outlined in the paragraph above.

E. The amendment to allegation #7 in the original complaint still does not make a clear and concise statement of the facts alleged to constitute a violation of section 3547. Based on conversations with you and the two respondents it

is my understanding that you are alleging a violation occurred when CSEA made a demand to negotiate with the district in an area (layoff of employees) which you believe is outside the scope of representation under the Educational Employment Relations Act. If your contention is true, the complaint cannot be amended to state a prima facie violation of section 3547 of the Government Code in that it covers initial proposals "...which relate to matters within the scope of representation". If, on the other hand, your contention is not true, the complaint still could not be amended to state a prima facie case. As outlined in paragraph A of this letter, the respondents have complied with the law regarding public notice of initial proposals. In any case, the respondents have informed me that no meeting and negotiating on this subject has or will take place because the issue was resolved to their satisfaction informally.

This determination may be appealed to the Board itself at the headquarters office in accordance with the provisions of Division 1, Chapter 4, Article 2 of the PERB Regulations. The new address of the PERB Headquarters Office is 1031 18th Street, Sacramento, CA 95814. Any appeal must be filed within 10 days following the date of service of this letter of dismissal.

Please contact me if you have any questions.

Very truly yours,

Frances A. Kreiling
Regional Director

John J. Ortega
Representative

cc: William Sharp
Marjorie Kantrowe