

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



MT. DIABLO EDUCATION ASSOCIATION,  
CTA/NEA,

Charging Party,  
APPELLANT,

and

JOHN MILLS, PETER MOLINO, CAROL YOUNG,  
CATHERINE AVINGTON, LAURIE PETERSON  
AND LES GROOBIN,

Intervenors,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. SF-CE-452

Interim Order  
PERB Decision No. 373a

Administrative Appeal  
PERB Order No. Ad-141

June 29, 1984

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MT. DIABLO FEDERATION OF TEACHERS,  
LOCAL 1902, CFT/AFT, AFL-CIO,  
JOHN MILLS, PETER MOLINO, CAROL YOUNG,  
CATHERINE AVINGTON, LAURIE PETERSON  
AND LES GROOBIN,

Charging Parties,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. SF-CE-455

Appearances; Kirsten L. Zerger, Attorney for Mt. Diablo  
Education Association, CTA/NEA.

Before Hesse, Chairperson; Jaeger, Morgenstern, and Burt,  
Members.

DECISION AND ORDER

JAEGER, Member: The Mt. Diablo Education Association (Association) appeals the decision of the San Francisco Regional Director of the Public Employment Relations Board (PERB or Board) denying its request that the Board seek immediate enforcement of its Order in Mt Diablo Unified School District (12/30/83) PERB Decision No. 373.

In Mt. Diablo Unified School District, supra, the Board ordered the Mt. Diablo Unified School District (District) to negotiate the impact of its decision to lay off employees and, consistent with NLRB v. Transmarine Navigation (9th Cir., 1967) 380 F.2d 933 [65 LRRM 2861], ordered the District to pay employees who were laid off back wages

from the first day the Association requests to bargain following issuance of this PERB Decision, until occurrence of the earliest of the following conditions: (1) the date the parties reach agreement; (2) the date other statutory impasse procedure is exhausted; (3) the failure of the Association to request negotiations within thirty (30) days of service of this Decision; or (4) the subsequent failure of the Association to negotiate in good faith.

On January 19, 1984, the Association made its demand to bargain, including a request that the District begin paying back wages in a manner consistent with the Board's Transmarine remedy.

On January 23, 1984, the Association filed a Request for Reconsideration of PERB Decision No. 373 pursuant to PERB rule 32410<sup>1</sup>.

Pursuant to the Association's bargaining request, the parties met and negotiated on at least four occasions. However, the District refused to comply with the back-pay portion of the Board's Order.

On May 8, 1984, the Association filed its request that the Board enforce Decision No. 373. On May 24, 1984, the request was denied.

Upon review of the Association's appeal and the entire record in this case, the Board hereby ORDERS that the Association's administrative appeal is DENIED. We further ORDER that enforcement of Decision No. 373 is STAYED pending our determination whether to grant reconsideration.<sup>2/</sup>

Chairperson Hesse and Members Morgenstern and Burt joined in this Decision.

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1/ PERB rules are codified at California Administrative Code, title 8, section 31001 et seq.

<sup>2</sup>The Association requests that the Board determine whether employees are entitled to back-pay pursuant to our Order in Decision No. 373 for the period during which negotiations have already occurred. Given the fact that the case is currently before the Board pursuant to the Association's reconsideration request, and thus subject to modification, it is premature for the Board to pass on this issue.