

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



ROBERT RAY BRADLEY,)
)
 Charging Party,) Case No. LA-CE-2 386
)
 v.) PERB Decision No. 748
)
 LOS ANGELES COMMUNITY COLLEGE) June 28, 1989
 DISTRICT,)
)
 Respondent.)
 _____)

Appearance: Robert R. Bradley, on his own behalf.

Before Hesse, Chairperson; Shank and Camilli, Members.

DECISION

HESSE, Chairperson: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the charging party, Robert Ray Bradley, to the proposed decision, attached hereto, of a PERB administrative law judge (ALJ). The ALJ found that the respondent, Los Angeles Community College District, did not violate the Educational Employment Relations Act (EERA) section 3543.5(a) in that it neither interfered with Bradley's protected right to file grievances, nor retaliated against him for filing a grievance.¹

¹EERA is codified at Government Code section 3540 et seq. Section 3543.5 provides, in pertinent part:

It shall be unlawful for a public school employer to:

- (a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

We have carefully reviewed the entire record, including the proposed decision, the transcript, and the exceptions filed by the charging party. Finding the ALJ's findings of fact and conclusions of law free of prejudicial error, we adopt them as the decision of the Board itself. Further, we find no evidence in the record of any bias or prejudice by the ALJ, and thus we reject any notion that her decision is flawed due to bias.

ORDER

The unfair practice charges in Case No. LA-CE-2386 are hereby DISMISSED.

Members Shank and Camilli joined in this Decision.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



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|-----------------------|---|---------------------|
| ROBERT RAY BRADLEY, |) | |
| |) | |
| Charging Party, |) | Unfair Practice |
| |) | Case No. LA-CE-2386 |
| v. |) | |
| |) | |
| LOS ANGELES COMMUNITY |) | PROPOSED DECISION |
| COLLEGE DISTRICT, |) | (2/6/89) |
| |) | |
| Respondent. |) | |

Appearances: Robert Ray Bradley, on his own behalf; Warren S. Kinsler, General Counsel, and James H. Aguirre, Assistant General Counsel, for Los Angeles Community College District.

Before Barbara E. Miller, Administrative Law Judge

I. PROCEDURAL HISTORY

On May 20, 1986, Robert Ray Bradley (hereinafter Charging Party or Bradley) filed three unfair practice charges against the Los Angeles Community College District (hereinafter Respondent, District or LACCD). Those cases were identified as Case Nos. LA-CE-2386, LA-CE-2387 and LA-CE-2388. In Case No. LA-CE-2387, Bradley alleged that the District released a confidential document which Bradley had submitted in conjunction with a grievance. Bradley further alleged that such action interfered with his rights and constituted retaliation for his exercise of rights guaranteed by the Educational Employment Relations Act (hereinafter EERA).¹ On July 9, 1986, Bradley filed an amendment

¹The Educational Employment Relations Act is codified beginning at Government Code Section 3540. Unless otherwise indicated, all statutory references are to the Government Code. Section 3543.5 provides, in relevant part, as follows:

This proposed decision has been appealed to the Board itself and may not be cited as precedent unless the decision and its rationale have been adopted by the Board. ^ ^

to Case No. LA-CE-2386, requesting that allegations set forth in Case No. LA-CE-2387 and Case No. LA-CE-2388 be incorporated therein. The amendment was accepted and Case Nos. LA-CE-2387 and LA-CE-2388 were withdrawn. The unfair practice charge was again amended on December 19, 1986. Thereafter, on December 24, 1986, a Complaint issued alleging that the release of confidential information interfered with Bradley's rights in violation of section 3543.5(a).

The Complaint did not allege that the release of confidential information was retaliation for Bradley's protected activity but that allegation also was not addressed in the written dismissal.² Other aspects of the unfair practice charge, the substance of which are not relevant here, were dismissed. The dismissal of those matters was appealed to the Board itself.

On January 13, 1987, while the appeal of the dismissal was pending before the Board, the Respondent filed its answer to the

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²Section 32630 of PERB's regulations, California Administrative Code, title 8, part III, provides that, when a Board agent refuses to issue a complaint, the refusal will constitute a dismissal of the charge. The section requires that such a refusal be set forth in writing. It states, "The refusal, including a statement of the grounds for refusal, shall be in writing and shall be served on the charging party and respondent."

Complaint. Thereafter, an informal settlement conference was conducted on February 10, 1987. When the parties were unable to resolve their dispute, the Respondent requested and was granted a stay of all proceedings pending a decision of the Board itself on the Charging Party's appeal of the aforementioned dismissal. After the Board issued Los Angeles Community College District (1987) PERB Decision No. 617, in which it affirmed the written dismissal, the instant case was reactivated. On July 8, 1988, the matter was assigned to the undersigned. Thereafter, the parties participated in additional settlement discussions which were unsuccessful.

A pre-hearing conference was conducted on October 6, 1988, and the formal evidentiary hearing on October 19 and 20, 1988. Thereafter, the parties filed simultaneous post-hearing briefs and the matter was submitted for proposed decision on January 24, 1989.

II. FINDINGS OF FACT

Robert Bradley is an employee and the LACCD is an employer as those terms are defined in the EERA. At all times relevant herein, Robert Bradley served as a professor in the Business Administration Department of Los Angeles Pierce College, one of the nine colleges which comprise the Los Angeles Community College District. For at least some of the time relevant herein, Bradley served as the chairperson in the Business Administration Department. As a professor and as department chairperson, Bradley was in a system wide collective bargaining unit of

certificated employees. The AFT College Guild (hereinafter Union or Guild) is the exclusive representative of that unit. The Union and the District are parties to a series of collective bargaining agreements. At the time the instant dispute arose, the collective bargaining relationship was covered by an agreement effective from October 12, 1983 through October 12, 1986.

At the District's Pierce College, the Business Administration Department and the Office Administration Department share two faculty complexes and their main offices are quite close to one another in the same facility.³ Beginning as early as 1981, Bradley made allegations about improprieties in the Office Administration Department, including, but not limited to, accusations of personnel mismanagement, illegal and/or improper staffing of classes with unqualified personnel, and the illegal and false reporting of student attendance data. According to Jean Loucks, acting president at Pierce College at the time of the formal hearing, Bradley began making such allegations back in 1981 or 1982 when she was the Assistant Dean of Instruction. Bradley renewed the allegations every year thereafter, including 1985, when Loucks served as the Vice President for Academic Affairs.

³At some times relevant herein, the Office Administration Department may have been called the Secretarial Science Department. In order to avoid confusion, for purposes of this Proposed Decision, it will be referred to as the Office Administration Department.

Bradley's complaints about the Office Administration Department were well known to members of that department and members of the Business Administration Department as well. The precise way in which Bradley's colleagues knew of each of his complaints is not documented in the record, although Bradley admitted he let some of his colleagues know of his concerns. Moreover, the record does reflect that members of the Office Administration Department were involved in formulating responses to Bradley's written complaints and accusations. In addition, the documentary record reflects that, in April of 1982, a faculty member in the Business Administration Department wrote Bradley, advising him that his tactics vis-a-vis Office Administration "violated the sensibilities of society." Bradley was further told that his approach was "hostile and acrimonious" and that his allegations of "possible fraud" were defamatory.

On September 22, 1984, Bradley sent a letter to the then president of Pierce College, Herbert Ravetch, noting that 30 months had elapsed since Bradley's report of criminal activity on campus had been submitted and that no action had been taken either to correct the matter or report it to the proper law enforcement agencies. Bradley requested a meeting which was held on October 15, 1984.

On October 16, 1984, the chairperson of the Office Administration Department, who had attended the aforementioned meeting with Bradley and Ravetch, and two members of the department, addressed a joint memorandum to Ravetch, complaining

about Bradley's allegations that they had engaged in criminal activity. They demanded a written apology from Bradley. The letter was signed by each member of the department.

On November 9, 1984, Ravetch issued two separate memoranda to Bradley. The first indicated that since Bradley had not come forth with additional facts to support his allegations, Ravetch would presume the results of the exonerating investigation were correct. In the second memorandum, Ravetch urged Bradley to consider actions which would repair his relationship with the membership of the Office Administration Department. The record does not reflect whether the matter was pursued at that time.

Then, sometime during the spring of 1985, management at Pierce College announced the transfer of a teacher, Sylvia Cohen, from the Office Administration Department to the Business Administration Department. The District apparently justified the transfer on the ground that the Office Administration Department was over-staffed. On May 2, Bradley filed a grievance protesting Cohen's transfer. Bradley objected on the ground that the transfer would result in the layoff of part-time personnel in Business Administration. He also alleged that the Office Administration Department only appeared to be over-staffed as a result of its illegal use of classified and not credentialed teachers.

Pursuant to the grievance-arbitration provisions of the contract between the Union and the District, a Step One grievance conference was held on May 16, 1985, in Loucks' office. Bradley

was in attendance, accompanied by Eloise Crippens, his Union representative. On May 22, 1985, Loucks responded to the grievance, finding no wrongdoing but indicating that Bradley's suggested remedy, the rescission of the complained-of transfer, was granted in part; Sylvia Cohen would be transferred to Business Administration on a 40% rather than a 100% basis.

Bradley filed an appeal of the Step One adjudication of his grievance on May 24, 1985. On August 29, 1985, the new president of the college, David Wolf, wrote a memorandum to Bradley indicating that the grievance had been thoroughly reviewed and that he concurred in the Step One proposed resolution.

Thereafter, Bradley notified the Union that he wanted to take the case to arbitration. Pursuant to the contract, Bradley could only invoke arbitration himself if the Union approved of his effort. The District asserts that neither the Union nor Bradley initiated the final phase of the grievance-arbitration procedure. No evidence was produced by Bradley to show that the grievance formally progressed after the termination of Step Two. Nevertheless, Bradley testified that although the Union had not affirmatively advised him that the matter was going to arbitration, he believed that subsequent developments were consistent with the continued processing of the matter.

In September 1985, Bradley and Crippens met with Virginia Mulrooney, the then vice-chancellor responsible for labor relations, to discuss the grievance. Pursuant to a request or suggestion by Mulrooney, Bradley prepared a memorandum, addressed

to Crippens, which identified his grievance as the subject.

(Hereinafter, the memorandum to Crippens will be referred to as the September memo.) In the September memo, Bradley specifically identified, by name, student workers and/or teaching aides who, he claimed, were teaching Office Administration classes illegally. Bradley also detailed the way in which improper assignments and the use of false attendance data had contributed to the perceived need to reassign Sylvia Cohen.

Bradley did not write the word "confidential" on the September memo. Moreover, nowhere in the text of the September memo does it state that the memo or its contents are confidential. Nevertheless, as will be set forth in more detail below, Bradley, and some administrators who testified, indicated that it was their understanding that grievance matters were generally treated as confidential.⁴

Bradley gave a copy of the September memo to Eloise Crippens, believing she would transmit it to Mulrooney in furtherance of his grievance. He also left a copy of the September memo at the office of David Wolf. Bradley testified that he left a copy with the president because he thought it was

⁴No written rule or regulation was introduced into evidence and no witness testified about a rule or regulation which required or suggested that grievance materials should be kept confidential. Similarly, the collective bargaining contract is silent on the subject. The only provision of the contract found by the undersigned to be arguably related to the matters at issue herein provides that documents submitted in connection with a grievance will be filed in the Office of Staff Relations and will be kept separate from personnel files.

customary to transmit documents to the previous level of review in the grievance process. David Wolf launched an investigation of Bradley's allegations.⁵

On or before October 7, 1985, Wolf directed Jean Loucks to get the chairperson of the Office Administration Department to respond to the allegations set forth in the September memo. From the testimony offered by Loucks, I conclude that she had no present recollection regarding the status of the grievance in 1985, although it appears that in 1985 Loucks thought Bradley had an active grievance. In any event, on October 7, Loucks sent a copy of the September memo to Don Love, the Dean of Academic Affairs with the following directive:

It is imperative that we attempt to stop this immediately. Mr. Bradley is continuing his harassment of the Office Administration Department to the detriment of the college. Please have Ellen Anderson respond immediately to each point so that I can respond to David Wolf and the AFT. (Emphasis added.)

Thus, whether or not the grievance was active, Loucks' letter, quoted above, makes it clear that she believed the Union was still actively involved in Bradley's dispute.

On October 8, 1985, Love transmitted the September memo to Ellen Anderson, the chairperson of the Office Administration

⁵The record does not disclose if Wolf was working with Mulrooney or following through on his own. Similarly, the record is silent with respect to the question of whether or to what extent the Union was involved in Wolf's investigation. Neither Wolf, Mulrooney, nor Crippens was called as a witness in this unfair practice proceeding.

Department. His cover memorandum listed the subject as "GRIEVANCE-BOB BRADLEY CONFIDENTIAL." Love's memorandum stated:

Attached is a copy of a memo which relates to an active grievance Bob Bradley has involving the Office Administration Department.

Will you answer each paragraph that contains an allegation against office administration, so that I can develop a response for Jean Loucks' use.

Remember, this matter requires a response from the top administration of the college and AFT is tied to a specific time line. Please give it top priority. (Emphasis added.)

Notwithstanding his inability to recall details while a witness in this proceeding, Love's transmittal memorandum indicates that he believed Bradley's grievance "active." By his testimony and in his memorandum, Love indicated that sending the September memo to Anderson was consistent with the way in which the college investigated matters; the faculty of a concerned department was ordinarily called upon to respond.⁶

Anderson had just assumed the position of chairperson at the beginning of the academic year. Anderson testified that, in order to fashion her response, she needed input from other

⁶Love testified that there were other ways the information sought by the President could have been obtained. Bradley suggested that concerned administrators should have conducted an independent investigation. It is readily apparent to the undersigned that Anderson could have been asked to respond to the allegations without identifying the author of the charges or transmitting the September memo. Love did not approach the matter in that fashion because he simply did not consider deviating from his typical approach to such matters.

members of the department. Accordingly, she met with them and reviewed the allegations. Anderson did not think that sharing the September memo with her colleagues was a breach of confidentiality because she construed Love's designation of the matter as "confidential" to mean that the information should not go beyond her or the members of her department. After the departmental meeting, on October 10, 1985, Anderson responded to Love's request, as directed. On October 11, 1985, Anderson sent a letter directly to Wolf, enclosing copies of correspondence which reflected "the longevity of this problem with Mr. Bradley."

Not long thereafter, on November 26, 1985, Bradley, responding to some management action that impacted upon a different grievance, wrote an angry seven-page letter to Jean Loucks, again detailing the alleged improprieties in the Office Administration Department. On or about December 2, 1985, Bradley sent a separate letter to Dr. Monroe Richman, the president of the District's Board of Trustees, repeating his allegations of illegal and improper acts by management and members of the Office Administration Department; a copy of Bradley's November letter to Loucks was enclosed. In his letter to Richman, Bradley did not mention that his allegations had been incorporated in a grievance and he did not ask that matters be kept confidential. Bradley did advise Trustee Richman that his major concern was that the Business Administration Department was not receiving equitable treatment because the Office Administration Department was receiving a disproportionate share of college resources. Richman

wrote to Wolf requesting detailed answers to the issues raised by Bradley's correspondence. In response, a package of information was transmitted to the Trustees on December 30, 1985. The record does not disclose if the Trustees ever responded to Bradley. Jean Loucks did respond to Bradley's correspondence to her on December 19, 1985.

Not long thereafter, on January 27, 1986, Bradley filed a grievance entitling it the "Supplemental [sic] Grievance Concerning the 'Reassignment' of Sylvia Cohen." David Wolf responded on January 31, 1986. Noting that he saw nothing different in the grievance from that disposed of five months earlier, he stated that he found no violation of the contract and denied the grievance. There is no evidence that that particular grievance was further processed.

The events described above were known to members of the Office Administration Department who had specifically reviewed the November letter from Bradley to Loucks. After discussion among the members of the Office Administration Department, it was decided to send a letter to the administration demanding a cessation of Bradley's "harassment" of the department. The department members also decided to send a copy of the letter to each member of Bradley's Business Administration Department. The evidence is uncontroverted that the decision to take that action was made at the department level, by the faculty members, by use of traditional collegial decision-making practices, with no input or intervention by management.

Thus, on February 25, 1986, members of the Office Administration Department sent a memorandum to Wolf complaining about Bradley's continued harassment and his interference with the operation of the Office Administration Department. The faculty requested that the president place a formal reprimand in Bradley's personnel file. The faculty also requested that the administration not endorse Bradley for reappointment as Business Department chairperson if the harassment and defamation continued. The memorandum from the faculty of the Office Administration Department quoted from various Bradley communications sent in the past, including the September memo.

Upon receipt of the February memorandum from the Office Administration Department, Bradley learned, apparently for the first time, that his September memo had been released. As a result of the disclosure of the September memo to members of the Business Administration Department, Bradley claims that members of his department turned against him. Moreover, during the hearing and in a post-hearing document wherein he requested \$2,000,000.00 in damages, Bradley argued that the furor caused by the release of his September memo resulted in his removal from the position of department chairperson.

The record reflects that Bradley was chairperson at the time his grievance was filed during the 1984-85 school year, that his September memo was quoted from and sent to members of his department during the 1985-86 school year, and that he was not chairperson for the 1987-88 school year. There is no evidence

regarding the circumstances surrounding his no longer serving as chair. There is no evidence of whether he was nominated, whether he sought to serve, or whether he failed to get the requisite votes needed. Bradley offered no evidence in this regard and Loucks testified that, pursuant to the collective bargaining agreement, management plays no role in the selection of chairperson. Loucks further testified that, in fact, to her knowledge, management did not participate in the decision affecting Bradley's status and it did not attempt to influence the process.

III. ISSUES

A. Did the release of Bradley's September memo, first to the Office Administration Department and then to the Business Administration Department, tend to interfere or interfere with his exercise of rights guaranteed by the EERA?

B. Is the allegation that the September memo was released as retaliation for Bradley's protected activity properly a part of this unfair practice proceeding? If the answer is "yes", did the District retaliate against Bradley?

IV. DISCUSSION

A. Interference

In Carlsbad Unified School District (1979) PERB Decision No. 89, the Board set forth the test appropriate in cases alleging interference. The first part of the test provides that a prima facie violation of the EERA will be deemed to exist if "the Charging Party establishes that the employer's conduct tends to

or does result in some harm to employee rights granted under the EERA." In determining whether certain conduct tends to interfere with employee rights, the conduct is not looked at in a vacuum. In other words, the test is whether, given the context, the employer's conduct tends to interfere with the exercise of employee rights. See, Riverside Unified School District (Petrich) (1987) PERB Decision No. 622.

In the instant case, there is no dispute that, in filing grievances, Bradley engaged in protected activity. Similarly, there is no dispute that grievance materials were generally considered confidential; although no precise evidence established the fact that grievance materials must be kept confidential, Charging Party and District witnesses generally testified that it was their understanding that grievance materials were ordinarily confidential.⁷

Thus, the question presented is whether the release of Bradley's September memo interferes or tends to interfere with his exercise of activity protected by the EERA. As noted above, in deciding this question, it is important to understand the context in which the question arises. The District, its administrators, and the members of its Office Administration Department had been repeatedly charged with malfeasance and misfeasance. Bradley suggests that the District mishandled his grievance by not conducting an independent investigation without

⁷What was meant by "confidential" was never truly defined.

the participation of members of the Office Administration Department. With an independent investigation, his "right" to confidentiality would have been preserved. I disagree.

In circumstances such as those present herein, the District has a right to investigate Bradley's charges and it is not appropriate for Bradley, or this Administrative Law Judge, to dictate the manner in which the District elects to conduct such an investigation. Thus, whether to refer the matter to the accused Department for a report is a decision properly within the District's prerogative.

Having reached that conclusion, the scope of the present inquiry is reduced to whether the release of the September memo itself, with Bradley's name on it, interfered or tended to interfere with his protected activity. Reviewing all the circumstances surrounding the investigation, I find that the release of the September memo did not interfere or tend to interfere with Bradley's rights.

In most respects, the evidence submitted and the accusations made by Bradley in his September memo were matters which he had raised in the past without regard to a shield or promise of confidentiality. The accusations were also repeated in several nonconfidential communications after the September memo. The record reflects that the nature and scope of his accusations were known to members of his own department, Business Administration, as well as members of the Office Administration Department. In short, Bradley was readily identifiable as the author of

allegations regarding mismanagement in the Office Administration Department. Thus, although publication of a document submitted in conjunction with a grievance might ordinarily be viewed with disfavor, given the totality of circumstances present here, the action cannot be said to interfere with Bradley's exercise of protected rights or to have a chilling affect on his continued utilization of the grievance procedure. The conclusion that disclosure did not interfere with Bradley's rights applies to the initial release of the September memo by management to Ellen Anderson, Anderson's release of the September memo to the members of her department, and the subsequent quotation from the September memo in the letter sent by the Office Administration Department to the faculty members in the Business Administration Department.

B. Discrimination

As noted above, the unfair practice charge, as amended, alleged that the September memo was released in retaliation for Bradley's protected activity. Although that allegation was not in the Complaint, it was not the subject of the partial dismissal. Accordingly, when the Board itself affirmed the Regional Attorney's dismissal, the issue of retaliation was not addressed. The PERB has often considered the propriety of an Administrative Law Judge considering allegations which are not part of an unfair practice complaint.

The rules governing such matters were set forth in Santa Clara Unified School District (1979) PERB Decision No. 104. In

that case, the Board found a violation regarding a matter not alleged in the complaint, noting the existence of several factors which made such a finding appropriate. The Board, adopting the standards used by the National Labor Relations Board, stated:

Where, as here, the unalleged violation is intimately related to the subject matter of the complaint, where the communicative acts are a part of the same course of conduct, where the unalleged violation is fully litigated, and where the parties have had the opportunity to examine and be cross-examined on the issue, the NLRB has entertained unalleged violations. Id. at p. 18.

Not only does the instant case comport with the standards set forth above, in this matter, the Respondent was specifically notified that it should be prepared to defend allegations of retaliation. Thus, the retaliation charges are properly a part of this proceeding.

The now well-established standards used to assess a retaliation case were first distinctly set forth by the Board in Novato Unified School District (1982) PERB Decision No. 210. The charging party must demonstrate that an employee engaged in protected activity, that such activity was known to the employer, and that such activity was a motivating factor in some adverse personnel action. Since motivation is often difficult to prove directly, the charging party must merely raise an inference of unlawful motivation. If that is accomplished, the burden of proof shifts to the respondent to show that its actions would have been the same, regardless of the protected activity.

In the instant case, in terms of the initial release of the September memo to Ellen Anderson, although Bradley easily established that he engaged in protected activity known to the Respondent, he has failed to raise an inference of unlawful motivation. Although the timing of the publication of his September memo was proximate to the timing of the grievance itself, timing alone does not raise an inference of unlawful motivation. Charter Oak Unified School District (1984) PERB Decision No. 404. Other factors which raise an inference of unlawful motivation are not present here.

The District did not deviate from its customary practice in investigating allegations of misconduct or grievances. Love, Loucks, and representatives from the Office Administration Department all testified, or suggested through their testimony, that it was fairly routine to have a department conduct an investigation and prepare a response when charges were lodged against that department. In addition, the District, for the most part, did not offer contradictory or inconsistent explanations for its conduct. The September memo was sent to the Office Administration Department because that was the way things were customarily handled.

Similarly, the actions of the Office Administration Department in sending a letter, which quoted from the September memo, to the faculty of the Business Administration Department do not establish Bradley's allegation of retaliation because of his protected activity. Even if actions by members of the bargaining

unit who comprise the faculty in the Office Administration Department are attributable to management, a fact certainly not established herein, the testimony of witnesses from the Office Administration Department persuaded the undersigned that their actions were not influenced by the fact that Bradley had framed one of his many complaints against the department in the form of a grievance. Moreover, I am convinced that Bradley's November 26 memorandum to Loucks, followed by his communication with the Board of Trustees was enough, without his September memo, to have triggered the angry actions of the faculty of the Office Administration Department.

Finally, Bradley failed to establish that any adverse personnel action resulted from the release of his September memo. Although he was not the chairperson of the Business Administration Department at the time of the unfair practice hearing, insufficient evidence was presented regarding any aspect of the department chairperson selection process to allow one to reach any conclusions about that process.

V. CONCLUSION

Based upon the foregoing findings of fact and conclusions of law, it is found that the Charging Party, Robert Ray Bradley, has failed to establish that the actions of the Los Angeles Community College District interfered with his protected right to file grievances or that the District retaliated against him for filing a grievance. For a period of years Bradley has complained about the manner in which a particular department was managed at Pierce

College. There is no doubt that the members of the Office Administration Department sent copies of an angry letter to all members of the department which had elected Bradley as its chairperson in response to Bradley's own repeated and unrelenting allegations of misconduct. There might have been retaliation, but not the sort actionable under the EERA.

PROPOSED ORDER

After a hearing in the matter of Unfair Practice Case No. LA-CE-2386, Robert Ray Bradley v. Los Angeles Community College District, it is determined that the Charging Party has failed to establish that the release of a memorandum which related to a grievance constituted a violation of the EERA. Accordingly, the Complaint herein is DISMISSED.

Pursuant to California Administrative Code, title 8, part III, section 32305, this Proposed Decision and Order shall become final unless a party files a statement of exceptions with the Board itself at the headquarters office in Sacramento within 20 days of service of this Decision. In accordance with PERB Regulations, the statement of exceptions should identify by page citation or exhibit number the portions of the record, if any, relied upon for such exceptions. See California Administrative Code, title 8, part III, section 32300. A document is considered "filed" when actually received before the close of business (5:00 p.m.) on the last day set for filing. ". . . or when sent by telegraph or certified or Express United States mail, postmarked not later than the last day set for filing"

See California Administrative Code, title 8, part III, section 32135. Code of Civil Procedure section 1013 shall apply. Any statement of exceptions and supporting brief must be served concurrently with its filing upon each party to this proceeding. Proof of service shall accompany each copy served on a party or filed with the Board itself. See California Administrative Code, title 8, part III, sections 32300, 32305 and 32140.

Dated: February 6, 1989

Barbara E. Miller
Administrative Law Judge