STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

HOWARD 0. WATTS, Complainant, v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Respondent.	)	Case No. LA-PN-108 Request for Reconsideration PERB Decision No. 832 PERB Decision No. 832a October 25, 1990

Appearance: Howard 0. Watts, on his own behalf.

Before Hesse, Chairperson; Shank and Cunningham, Members.

DECISION

CUNNINGHAM, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Howard 0. Watts (Watts) of PERB Decision No. 832, which issued on August 8, 1990. Having duly considered the request for reconsideration, the Board denies the request for the reasons that follow.

In PERB Decision No. 832, the Board affirmed the dismissal by a Board agent of Watts' complaint against the Los Angeles Unified School District (District) which alleged that the District violated the Educational Employment Relations Act (EERA) section 3547 (a), (b), (c), (d) and (e)[1] by failing to properly

[1]EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. EERA section 3547(a), (b), (c), (d) and (e) state:

> (a) All initial proposals of exclusive representatives and of public school

"sunshine" an initial proposal for an agency fee election with the United Teachers of Los Angeles.

DISCUSSION

PERB Regulation 32410(a) states, in pertinent part:

> Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision. . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains

---

> 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.

> prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

In his request for reconsideration, Watts argues: (1) he has suffered prejudice due to comments regarding this case which he made before Board members at a PERB public meeting; (2) the presentation of an initial proposal in the form of a motion is inconsistent with the provisions of EERA regarding public notice; and (3) the underlying decisions by the Board agent and the Board itself improperly considered events occurring after August 10, 1989.

Initially, Watts argues that he has suffered prejudice based on events which occurred on April 12, 1990, at a PERB public meeting held in Los Angeles. At this meeting, Watts addressed the Board on several issues. Additionally, Watts made reference to the initial proposal brought by the District in this case for an agency fee election for the United Teachers of Los Angeles. Watts also expressed his opinion regarding the Board agent's analysis of the use of motions as vehicles for the introduction of initial proposals. At this juncture in his statement, Board Chairperson Hesse admonished Watts that he should not discuss cases which were then pending before the Board, as was this case on the date of this meeting.

Notwithstanding the fact that PERB regulations provide that a party may bring a motion for recusal of a Board member within

ten days of discovering a disqualifying interest,[2] and that Watts has chosen to ignore these requirements and, instead, advance this argument for the first time in this reconsideration, we can conceive of no plausible argument which would support the allegation that Watts has suffered any prejudice whatsoever. Watts himself chose to address the Board and make reference to the facts of this case. Immediately upon realizing that Watts was embarking on this wholly inappropriate course of conduct, the Chairperson directed him to cease discussing the facts of any pending cases so as to avoid the possibility of any prejudice. On this instruction, Watts made no further references to this case but, instead, moved on to other topics. As Watts has failed to demonstrate facts which would arguably support a finding of prejudice and, as it appears frivolous based on the facts asserted, this allegation does not constitute an appropriate basis for granting this request for reconsideration.

Reconsideration is not appropriate when a party restates an argument which was considered and rejected by the Board in its

---

[2]PERB Regulation 32155(f) provides:

> Any party to a case before the Board may file directly with the Board member a motion for his or her recusal from the case when exceptions are filed with the Board or within ten days of discovering a disqualifying interest provided that such facts were not available at the time exceptions were filed. The motion shall be supported by sworn affidavits stating the facts constituting the ground for disqualification of the Board member. Copies of the motion and supporting affidavits shall be served on all parties to the case.

underlying decision. (Tustin Unified School District (1987) PERB Decision No. 626a, p. 3.) Here, Watts merely reargues that a motion is not an appropriate form for the introduction of an initial proposal, and that the Board should consider only those events occurring before August 10, 1989 in this complaint. These arguments were properly rejected by the Board in the underlying decision. No newly discovered evidence or law is cited in conjunction with these allegations. Accordingly, Watts has failed to demonstrate extraordinary circumstances warranting reconsideration.

ORDER

There being no proper grounds for reconsideration stated, the request for reconsideration of PERB Decision No. 832 is hereby DENIED.

Chairperson Hesse and Member Shank joined in this Decision.