STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA STATE EMPLOYEES ASSOCIATION,

Charging Party,

v.

STATE OF CALIFORNIA (DEPARTMENT OF YOUTH AUTHORITY),

Respondent.

Case No. SA-CE-1099-S

PERB Decision No. 1293-S

October 22, 1998

Appearances; Howard Schwartz, for California State Employees Association; State of California (Department of Personnel Administration) by Wendi L. Ross, Labor Relations Counsel, for State of California (Department of Youth Authority).

Before Dyer, Amador and Jackson, Members.

DECISION

AMADOR, Member: This case comes before the Public Employment Relations Board (Board) on appeal by the California State Employees Association (CSEA) to a Board agent's partial dismissal (attached) of the unfair practice charge. The portion of the charge at issue alleged that the State of California (Department of Youth Authority) (State) violated section 3519(b) and (c) of the Ralph C. Dills Act (Dills Act)[1] when it refused to

[1]The Dills Act is codified at Government Code section 3512 et seq. Section 3519 states, in pertinent part:

> It shall be unlawful for the state to do any of the following:
>
> (b) Deny to employee organizations rights guaranteed to them by this chapter.
>
> (c) Refuse or fail to meet and confer in good faith with a recognized employee

meet and confer over the decision to implement a new check-in/check-out system.[2]

The Board has reviewed the entire record in this case, including the Board agent's partial warning and dismissal letters, the unfair practice charge, CSEA's appeal, and the State's response. The Board finds the partial warning and dismissal letters to be free of prejudicial error and, therefore, adopts them as the decision of the Board itself.

ORDER

The partial dismissal of the unfair practice charge in Case No. SA-CE-1099-S is hereby AFFIRMED.

Members Dyer and Jackson joined in this Decision.

organization.

[2]A complaint was issued regarding CSEA's allegation that the State refused to meet and confer over the impacts of the implementation of the system.

STATE OF CALIFORNIA PETE WILSON, *Governor*

PUBLIC EMPLOYMENT RELATIONS BOARD

Sacramento Regional Office
1031 18th Street, Room 102
Sacramento, CA 95814-4174
(916) 322-3198

July 29, 1998

Maureen Lynch, Sr. LR Representative
California State Employees Association
1108 O Street
Sacramento, California 95814

Re: California State Employees Association v. State of California (California Youth Authority)
Unfair Practice Charge No. SA-CE-1099-S
PARTIAL DISMISSAL LETTER

Dear Ms. Lynch:

You filed the above-referenced charge on March 13, 1998, alleging violations of Government Code section 3519(c) and (b) . Specifically, you have alleged a failure to bargain by the California Department of Youth Authority (CYA or Department). We discussed this matter by telephone in mid-April and you supplied further information.

I indicated to you, in my attached letter dated May 26, 1998, that certain allegations contained in the charge did not state a prima facie case. You were advised that, if there were any factual inaccuracies or additional facts which would correct the deficiencies explained in that letter, you should amend the charge. You were further advised that, unless you amended these allegations to state a prima facie case or withdrew them prior to June 1, 1998, the allegations would be dismissed. You were granted an extension of time to file an amended charge.

I received your amended charge in this matter on June 19, 1998. We discussed this matter by telephone on or about July 16, 1998. As we discussed, your amended charge supplied no information demonstrating that the employer's new check-in/check-out system has an impact on the length of the work day or duty-free time. Accordingly, the allegation that the employer has violated its obligation to bargain by refusing to meet and confer over the decision to implement the Bio-Sentenial check-in/check-out system must be dismissed for reasons discussed in my prior letter.

Right to Appeal

Pursuant to Public Employment Relations Board regulations, you may obtain a review of this dismissal of certain allegations contained in the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal. (Cal. Code of Regs., tit. 8, sec. 32635(a).) To be timely filed, the original and five copies of such appeal must be actually received by the Board itself before the close of business (5 p.m.) or sent by telegraph, certified or Express United States mail postmarked no later than the last date set for filing. (Cal. Code of Regs., tit. 8, sec. 32135.) Code of Civil Procedure section 1013 shall apply. The Board's address is:

Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal. (Cal. Code of Regs., tit. 8, sec. 32635(b).)

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Cal. Code of Regs., tit. 8, sec. 32140 for the required contents and a sample form.) The document will be considered properly "served" when personally delivered or deposited in the first-class mail, postage paid and properly addressed.

Extension of Time

A request for an extension of time, in which to file a document with the Board itself, must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document.
The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party. (Cal. Code of Regs., tit. 8, sec. 32132.)

Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Sincerely,

ROBERT THOMPSON
Deputy General Counsel

By
BERNARD MCMONIGLE
Regional Attorney

Attachment

cc: Wendi Ross, DPA

BMC:eke

STATE OF CALIFORNIA PETE WILSON, *Governor*

PUBLIC EMPLOYMENT RELATIONS BOARD

Sacramento Regional Office
1031 18th Street, Room 102
Sacramento, CA 95814-4174
(916) 322-3198

May 26, 1998

Maureen Lynch, Sr. LR Representative
California State Employees Association
1108 O Street
Sacramento, California 95814

Re: California State Employees Association v. State of California (California Youth Authority)
Unfair Practice Charge No. SA-CE-1099-S
WARNING LETTER

Dear Ms. Lynch:

You filed the above-referenced charge on March 13, 1998, alleging violations of Government Code section 3519 (c) and (b) . Specifically, you have alleged a failure to bargain by the California Department of Youth Authority (CYA or Department). We discussed this matter by telephone in mid-April and you supplied further information.

On June 30, 1997, the California State Employees Association (CSEA or Union) received a letter from CYA which stated that it planned to install a new check-in/check-out system at the Department's eleven institutions. That letter also invited CSEA to discuss any impact associated with the check-in system with CYA. Later, CSEA was informed the system had been delayed, but it would receive another notice.

On February 13, 1998, CSEA received a notice regarding the new check-in/check-out system; it was ready for installation.

Your charge states that in the letter CYA said it "would not negotiate with CSEA over the decision or the impact of this new system." However, a reading of the letter (dated February 10, 1998, from Timothy J. Mahoney to Tut Tate) reveals no such refusal to bargain. It does state that the June 27, 1997 notice letter has been withdrawn and that CYA considers the system to be a routine upgrading. The letter invites CSEA representatives to a March 9, 1998, demonstration and question and answer session regarding the new system and also states,

> following a successful activation at NYCRCC, the remaining institutions will begin installation and activation of the system. As this occurs, local CSEA representatives will be invited to a system demonstration and a question and answer session will follow to

> address any issues of the remaining institutions.

Your charge also states that CYA has a past practice of noticing and negotiation with CSEA "on matters concerning check-in/check-out procedures."

A letter of February 18, 1998, to Timothy Mahoney from senior labor relations representative, Bill Kelly of CSEA states that,

> I definitely disagree that the new system is simply an upgrading of the existing check-in and check-out system. This new system is a major change in working conditions and the department has an obligation to meet and confer with the union over the change.

Kelly then asked for Mahoney to arrange a "meet and confer."

On April 13, 1998, Mahoney forwarded a letter to yourself and Kelly regarding the lack of agreement on the need for a "meet and confer" over the implementation of the system. The letter refers to a meeting in which you were asked how the system changed terms and conditions of employment which required negotiations. According to Mahoney, you presented no impact issues.

From your charge, as well as the February 18, 1998 letter from Bill Kelly to Timothy Mahoney it appears that CSEA requested to bargain over the decision to change the check-in/check-out system. There are no specific impact issues over which negotiations were requested.

In Inglewood Unified School District (1987) PERB Decision No. 624, the Board determined that a check-in/check-out system implemented for security purposes is not within the mandatory scope of bargaining unless the union can demonstrate that the system has an impact on length of the workday or duty-free time. You have provided no facts demonstrating such impact. Accordingly, your allegation that the employer violated its obligation to bargain by refusing to bargain over the decision must be dismissed.

Your charge also indicates that you wished to bargain over impact. However, you have provided no facts which show a bargaining demand over identified impact issues. The employer's letter to you of April 13, 1998, indicates that CSEA was asked to identify impact issues. A general request to negotiate that does not specify intended subjects of bargaining does not constitute an adequate demand and does not trigger the employer's duty to bargain. (Newman-Crows Landing Unified School District (1982)

PERB Decision No. 223.) Because you have not demonstrated that the employer refused to bargain over any impact issues, this allegation must also be dismissed.

For these reasons the charge, as presently written, does not state a prima facie case. If there are any factual inaccuracies in this letter or additional facts which would correct the deficiencies explained above, please amend the charge. The amended charge should be prepared on a standard PERB unfair practice charge form, clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must have the case number written on the top right hand corner of the charge form. The amended charge must be served on the respondent's representative and the original proof of service must be filed with PERB. If I do not receive an amended charge or withdrawal from you before June 1, 1998, I shall dismiss your charge. If you have any questions, please call me at (916) 322-3198, extension 355.

Sincerely,

BERNARD MCMONIGLE
Regional Attorney

BMC:eke