

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



LILLIAN H. BURTON,)
)
 Charging Party,) Case No. LA-CE-4046
)
 v.) Request for Reconsideration
) PERB Decision No. 1360
 LOS ANGELES COUNTY OFFICE OF)
 EDUCATION,)
) PERB Decision No. 1360a
)
 Respondent.)
)
) February 11, 2000
)
 _____)

Appearance: Lillian H. Burton, on her own behalf.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

DYER, Member: This case comes before the Public Employment Relations Board (PERB or Board) on a motion for reconsideration filed by Lillian H. Burton (Burton) of the Board's decision in Lillian H. Burton v. Los Angeles County Office of Education (1999) PERB Decision No. 1360 (LACOE (Burton)).¹ In that decision the Board adopted the Board agent's dismissal of Burton's charge alleging that the Los Angeles County Office of Education (LACOE) violated section 3543.5(a) of the Educational Employment Relations Act (EERA)² when she was ordered to leave

¹The Board notes that the pleading filed by Burton is not titled as a motion for reconsideration. However, in light of the fact that the document was filed within the time period for reconsideration, and that the arguments presented in this document ask the Board to reevaluate its prior decision, we address it as a motion for reconsideration.

²EERA is codified at Government Code section 3540 et seq. Section 3543.5(a) provides:

It shall be unlawful for a public school

campus on September 22, 1998, due to her failure to comply with LACOE procedures regarding a return from medical leave.

After reviewing the entire record, including Burton's request, the Board hereby denies the request for reconsideration,

DISCUSSION

In LACOE, the Board concluded that Burton's charge did not state a prima facie case. Reconsideration requests are governed by PERB Regulation 32410(a),³ which states:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains 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.

On November 29, 1999, Burton filed the instant request seeking reconsideration of the Board's decision in LACOE (Burton). The request consists of an eleven page document in

employer to do any of the following:

(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. For purposes of this subdivision, 'employee' includes any applicant for employment or reemployment.

³PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. A revision of PERB Regulation 32410 became effective January 3, 2000, subsequent to the filing of this request. The revision has no bearing on the Board's consideration in this case.

which Burton reargues issues previously introduced and ruled upon by the Board, and which also introduces new claims. In attachments to this document, Burton presents two letters from LACOE, two letters from the Los Angeles County Education Association (Association), and a letter from Andrea Wakefield, an Association representative, which Burton claims demonstrate that the Board's decision in LACOE (Burton) contains prejudicial errors of fact.

The issues which have been previously presented by Burton do not constitute grounds for reconsideration pursuant to PERB Regulation 32410. In reviewing requests for reconsideration, the Board has strictly applied the limited grounds included in that regulation, specifically to avoid the use of the reconsideration process to reargue or relitigate issues which have already been decided. (Redwoods Community College District (1994) PERB Decision No. 1047a; State of California (Department of Corrections) (1995) PERB Decision No. 1100a-S; Fall River Joint Unified School District (1998) PERB Decision No. 1259a.) In numerous request for reconsideration cases, the Board has declined to reconsider matters previously offered by the parties and rejected in the underlying decision. (California State University (1995) PERB Decision No. 1093a-H; California State Employees Association. Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S; California Faculty Association (Wang) (1988) PERB Decision No. 692a-H; Tustin Unified School District (1987) PERB Decision No. 626a; Riverside Unified School District (1987) PERB

Decision No. 622a.)

With regard to Burton's claims of factual error in LACOE (Burton), the information she submits evidences no prejudicial errors of fact that would cause us to reconsider our decision.

The Board concludes that Burton's request fails to comply with PERB Regulation 32410.

ORDER

Lillian H. Burton's request for reconsideration of the Board's decision in Lillian H. Burton v. Los Angeles County-Office of Education (1999) PERB Decision No. 1360 is hereby DENIED.

Chairman Caffrey and Member Amador joined in this Decision.