



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

MICHAEL MORRISON,

Charging Party,

v.

CALIFORNIA SCHOOL EMPLOYEES
ASSOCIATION, CHAPTER 296,

Respondent.

Case No. LA-CO-835-E

Request for Reconsideration
PERB Decision No. 1415

PERB Decision No. 1415a

March 16, 2001

Appearance: Michael P. Calof, Attorney, for Michael Morrison.

Before Amador, Baker and Whitehead, Members.

DECISION

BAKER, Member: This case comes before the Public Employment Relations Board (Board) on a request by Michael Morrison (Morrison) that the Board grant reconsideration of California School Employees Association, Chapter 296 (Morrison) (2000) PERB Decision No. 1415 (CSEA (Morrison)). In CSEA (Morrison), the Board dismissed the unfair practice charge, which alleged that the California School Employees Association, Chapter 296 (CSEA) breached its duty of fair representation in violation of section 3544.9 of the Educational

Employment Relations Act (EERA)¹. Additionally, the charge alleged that CSEA violated section 3543.6(b).²

After reviewing the entire record in this case, the Board hereby denies the request for reconsideration.

DISCUSSION

Reconsideration requests are governed by PERB Regulation 32410.³ PERB Regulation 32410(a) 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. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not

¹ EERA is codified at Government Code section 3540 et seq. EERA section 3544.9 provides:

The employee organization recognized or certified as the exclusive representative for the purpose of meeting and negotiating shall fairly represent each and every employee in the appropriate unit.

² EERA section 3543.6 provides, in relevant part:

It shall be unlawful for an employee organization to:

(b) 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.

³ PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case.

Morrison seeks reconsideration of the Board's decision in CSEA (Morrison) based on a claim that only through a hearing would he be able to prove his allegations that CSEA breached its duty of fair representation owed to him. In each of three challenges labeled as "exceptions" to the Board's decision in CSEA (Morrison), Morrison simply reargues matters previously presented and rejected by the Board in CSEA (Morrison).

In reviewing requests for reconsideration, the Board has strictly applied the limited grounds included in the 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.) In numerous request for reconsideration cases, the Board has simply declined to reconsider matters previously offered by the parties and rejected in the underlying decision. (California State Employees Association, Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S.)

As Morrison's request for reconsideration merely restates the grounds for his earlier appeal, we decline to reconsider the matters previously considered in CSEA (Morrison).

ORDER

Michael Morrison's request for reconsideration of the Board's decision in California School Employees Association, Chapter 296 (Morrison) (2000) PERB Decision No. 1415 is hereby DENIED.⁴

Members Amador and Whitehead joined in this Decision.

⁴ Morrison's request for oral argument before the Board is also denied.