

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JEFFEREY L. NORMAN & CHRIS GILLOTTE,

Charging Party,

v.

JURUPA UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. LA-CE-5796-E

Request for Reconsideration
PERB Decision No. 2401

PERB Decision No. 2401a

April 29, 2015

Appearances: Jefferey L. Norman, on his own behalf; Christopher Gilotte, on his own behalf; Fagen, Friedman & Fulfrost by Christopher D. Keeler, Attorney, for Jurupa Unified School District.

Before Huguenin, Winslow and Banks, Members.

DECISION¹

WINSLOW, Member: This case comes before the Public Employment Relations Board (PERB or Board) on request for reconsideration by Jefferey Norman (Norman) and Christopher Gilotte (Gilotte) (collectively as Charging Parties) of the Board's decision in *Jurupa Unified School District* (2014) PERB Decision No. 2401 (*Jurupa*). In that decision, the Board affirmed the Office of the General Counsel's dismissal of a charge alleging that the Jurupa Unified School District (District) violated section 3543.5(a) and (d) of the Educational Employment Relations Act (EERA)² when the District's attorney purportedly represented the

¹ PERB Regulation 32320(d) provides, in pertinent part: "Effective July 1, 2013, a majority of the Board members issuing a decision or order pursuant to an appeal filed under Section 32635 [Board Review of Dismissals] shall determine whether the decision or order, or any part thereof, shall be designated as precedential." Having met none of the criteria enumerated in the regulation, the decision herein has not been designated as precedential. (PERB regs. are codified at Cal. Code Regs., tit. 8, § 31001 et seq.)

² EERA is codified at Government Code section 3540 et seq.

president of the National Education Association-Jurupa (NEA-J or Association) in a deposition noticed by Gillotte in an administrative proceeding he was engaged in against the District.

The Board has reviewed the Charging Parties' request for reconsideration and supporting documentation, and the District's response thereto. Based on this review, the Board denies the Charging Parties' request for reconsideration for the reasons discussed below.

DISCUSSION

Requests for reconsideration of a final Board decision are governed by PERB

Regulation 32410(a) 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. 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 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.

Because reconsideration may only be granted under "extraordinary circumstances," the Board applies the regulation's criteria strictly in reviewing requests for reconsideration.

(Regents of the University of California (2000) PERB Decision No. 1354a-H.) Reiterating the same facts and arguments made on appeal does not satisfy the requirements of PERB

Regulation 32410(a). *(San Leandro Unified School District (2007) PERB Decision No. 1924a;*

Oakland Unified School District (2004) PERB Decision No. 1645a.) Purported errors of law are not grounds for reconsideration. (*California State Employees Association (Hard, et al.)* (2002) PERB Decision No. 1479a-S, p. 6); *Apple Valley Unified School District* (1990) PERB Order No. Ad-209a.)

According to the request, “The grounds for requesting reconsideration are limited to claims that: (1) the decision of the board itself contains prejudicial errors of fact.”³ Specifically, Charging Parties challenge the Board’s determination that the District’s Attorney, Kerrie Taylor (Taylor), did not represent Association President John Vigrass (Vigrass) in a deposition noticed by Gillotte in an administrative proceeding he was engaged in against the District. Charging Parties argue that Taylor helped prepare Vigrass for the deposition, and that since Taylor knew that Vigrass was not being called as a witness for or on behalf of the District (but rather on behalf of NEA-J), she had the intent of coaching Vigrass and limiting the amount of information that could be gathered for purposes of holding the District to account for alleged wrongs. They also argue that Taylor violated EERA and the California Rules of Professional Responsibility by not keeping a sufficient separation between the District’s interests and those of the Association when she met with Vigrass. By doing so, Charging parties allege that Taylor and the District interfered with the administration and

³ Despite this statement, Norman has appended a declaration in support of the request “which is not solely based upon the discovery of new evidence which was not previously available and could have not been discovered with the exercise of reasonable diligence, was submitted within a reasonable time of its discovery, is relevant to the issue’s [*sic*] sought to be reconsidered; and impacts or alters the decision of the previously decided case.” Norman has appended the following documents to the declaration: (1) a “NOTICE TO EMPLOYEES POSTED BY ORDER OF THE PUBLIC EMPLOYMENT RELATIONS BOARD” issued as part of the Board’s decision in *Jurupa Unified School District* (2012) PERB Decision No. 2283, and (2) a letter dated November 5, 2002, purporting to be from California Teachers Association Michael D. Hersh to Maura Larkins. The declaration does not conform to the requirements of PERB Regulation 32410(a). Even if it did conform to the regulation’s requirements, neither document supports reconsideration of our decision.

operations of an employee organization, interfered with Charging Parties' protected rights, dominated and illegally supported or interfered with the formation or administration of an employee organization, contributed financial or other support to an employee organization, and took actions inconsistent with due process.⁴

Charging Parties simply reiterate the same facts and arguments made on appeal of the original decision, and they fail to show that the Board made a prejudicial error of fact in its decision. Charging Parties also suggest the Board has made various errors of law, which may not serve as grounds for reconsideration. We therefore deny Charging Parties' request for reconsideration.⁵

ORDER

Jefferey Norman and Christopher Gillotte's request for reconsideration of the Public Employment Relations Board's decision in *Jurupa Unified School District* (2014) PERB Decision No. 2401 is hereby DENIED.

Members Huguenin and Banks joined in this Decision.

⁴ Charging Parties also make various allegations against Vigrass and NEA-J. However, since neither Vigrass nor the NEA-J are parties to this action, we disregard these arguments.

⁵ The District requests that the Board impose sanctions against Charging Parties for failing to meet the standards of PERB Regulation 32410, alleging that Charging Parties are attempting to harass and oppress the District, and that they have filed the request in bad faith. We deny the District's request for sanctions.