

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT,)	
)	
Employer,)	Case No. LA-R-55,
)	D-52
and)	
)	PERB Order No. Ad-87
UNITED TEACHERS OF THE ANTELOPE VALLEY,)	Administrative Appeal
)	
Employee Organization,)	
)	April 30, 1980
and)	
)	
ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT TEACHERS ASSOCIATION CTA/NEA,)	
)	
Employee Organization,)	
<u>APPELLANT.</u>)	

Appearances: Duane B. Beeson, Attorney (Beeson, Tayer, Kovach & Silbert) for Antelope Valley Union High School District Teachers Association, CTA/NEA; Lawrence Rosenzweig, Attorney (Levy & Goldman) for United Teachers of the Antelope Valley.

Before Gluck, Chairperson; Gonzales and Moore, Members.

DECISION

The Antelope Valley Union High School District Teachers Association, CTA/NEA (hereafter CTA) appeals a regional director's decision directing a decertification election in a certificated unit in the Antelope Valley Union High School District for which CTA is the incumbent exclusive representative. CTA contends that the petitioner for

decertification, the United Teachers of the Antelope Valley School District (hereafter United Teachers) is not an employee organization. The basis of CTA's contention is a draft of the United Teachers' constitution which provides that CTA and other organizations will be constituent members of the United Teachers. CTA denies it does or will participate in that organization.

Section 3540.1(d) of the Educational Employment Relations Act defines an employee organization as:

any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer.

United Teachers, in its response under penalty of perjury to the appeal, denies that the draft constitution is its current constitution and submitted a copy of its current constitution. It also submitted the names of certain certificated employees in the existing unit who are dues-paying members of United Teachers. CTA's appeal is silent on both of these matters. Based on its current constitution and on the fact that its members include certificated employees of the Antelope Valley Union High School District, United Teachers clearly meets the statutory definition of an employee organization.

Section 3544.5(d) of the Educational Employment Relations Act expressly requires only that a petition be supported by proof that at least 30 percent of the employees in the unit

support the decertification petition.¹ The Act establishes no minimum membership requirements as the precondition to the filing of a decertification petition. The Board imposes none.

The regional director's order scheduling a decertification election is AFFIRMED.

PER CURIAM

¹Section 3544.5(d) reads:

(d) An employee organization alleging that the employees in an appropriate unit no longer desire a particular employee organization as their exclusive representative, provided that such petition is supported by current dues deduction authorizations or other evidence such as notarized membership lists, cards, or petitions from 30 percent of the employees in the negotiating unit indicating support for another organization or lack of support for the incumbent exclusive representative. Such evidence of support shall be submitted to the board, and shall remain confidential and not be disclosed by the board. The board shall obtain from the employer the information necessary for it to carry out its responsibilities pursuant to this section and shall report to the employee organizations seeking recognition and to the public school employer as to the adequacy of the evidence of support.

PUBLIC EMPLOYMENT RELATIONS BOARD

DIRECTED ELECTION ORDER



Name of Employer Antelope Valley Union High School District Case Number LA-R-55, D-52

Pursuant to California Government Code Section 3540 et seq., the Regional Director of the Public Employment Relations Board hereby orders an Election, the provisions of which are as follows:

1. Jurisdiction. The Employer is a public school employer within the meaning of the Act; and any signatory employee organization is an employee organization within the meaning of the Act; and the employees described in the appropriate unit are public school employees within the meaning of the Act.
2. Election. An election by secret ballot shall be held under the supervision of the Public Employment Relations Board Regional Director, among the employees of the undersigned employer in the unit defined below, at the indicated time and place, to determine whether or not such employees desire to be represented for the purpose of meeting and negotiating by (one of) the undersigned employee organization(s). The election shall be held in accordance with Government Code Section 3540 et seq. and the applicable rules and regulations and procedures of the PERB.
3. Voter Eligibility. The eligible voters shall be those employees within the unit described below who were employed on the eligibility cutoff date indicated below, and who are still employed on the date of the election. This includes employees not at work on the date of the election because they were ill; on vacation, leave of absence, or sabbatical; temporarily laid off; and employees in the military service of the United States who appear in person at the polls.
4. Voter Lists. By the date indicated below, the employer shall file with the regional office list(s) containing the names, job titles and work locations of all the eligible voters. A copy of the list(s) shall be served concurrently by the employer on each employee organization appearing on the ballot. A statement of service shall be sent to the regional office with the list(s).
5. Notice of Election. The Regional Director shall serve on the employer and the eligible employee organizations a Notice of Election describing the manner and conduct of the election to be held and incorporating therein a sample ballot. By the date indicated below, the employer shall post such Notice of Election conspicuously on all employee bulletin boards in each facility of the employer in which members of the unit are employed.
6. Observers. Each party will be allowed to station an equal number of authorized observers selected from the nonmanagement, nonsupervisory employees of the employer at the polling places during the election to assist in its conduct, to challenge the eligibility of voters, and to verify the Tally of Ballots. If the unit consists of supervisory employees the parties may designate supervisors as observers.
7. Challenges. A PERB election officer or an authorized observer may question the eligibility of a voter. A person so challenged shall be permitted to cast a challenged ballot. Unresolved challenges, when sufficient in number to affect the results of the election, shall be resolved by PERB.
8. Tally of Ballots. As soon after the election as feasible, ballots shall be mingled and counted at the location designated below and tabulated by the Regional Director or the Regional Director's designated agent. Upon the conclusion of the counting, the Regional Director or designated agent shall furnish a Tally of Ballots to each of the parties.
9. Objections and Post Election Procedures. Objections to the conduct of the election or conduct affecting the results of the election, or to a determination of representatives based on the results thereof, may be filed with the Regional Director within 10 calendar days following receipt of the Tally of Ballots. Copies of such objections must be served upon the other parties at the time of filing with the Regional Director. All other procedures subsequent to the conclusion of counting of ballots and issuance of Tally of Ballots shall be in conformity with PERB Rules and Regulations.
10. Runoff Elections. In the event a runoff election is necessary, it shall be run at the direction of the Regional Director.

11. Wording on Ballot. The name(s) of the employee organization(s) shall appear on the ballot in addition to the designation "No Representation". The choices on the ballot shall appear in the wording and order enumerated below, reading from left to right on the ballot.

First: United Teachers of the Antelope Valley (UTAV)

Second: No Representation.

Third: Antelope Valley UHSD Teachers Association CTA/NEA

Fourth:

12. Cutoff Date for Voter Eligibility: March 31, 1980

13. Date(s), Hours and Location(s) of Election: May 1, 1980

1:00 P.M. to 5:00 P.M.

BOARD ROOM

Antelope Valley Union High

School District

45024 North Third Street East

Lancaster, California

14. Voter List To Be Received by PERB No Later Than: April 23, 1980

15. Notices of Election To Be Posted No Later Than: April 23, 1980

16. Date, Time and Location of Counting of Ballots: As soon as possible after the close of polls at the polling place.

17. The Appropriate Unit:

Shall INCLUDE:

See attached Appendix A.

Shall EXCLUDE:

18. Special Provisions. (For use as directed by PERB only)

A. Each party may station one authorized observer selected from the nonmanagement, nonsupervisory employees of the district at the polling place.

B. This directed order should not be interpreted to mean the Board would find the unit described herein to be an appropriate unit in a disputed case.

Ordered by Thomas A. Keeling
Regional Director
Public Employment Relations Board

Date April 14, 1980

APPENDIX A

THE VOTING UNIT:

Shall INCLUDE:

All regular permanent and probationary certificated employees including all regular secondary classroom teachers, temporary teachers hired under a contract for one semester or longer, department chairpersons, guidance counselors, head guidance counselors, secondary librarians, audio-visual coordinators, school work-experience coordinators, secondary nurses, and full-time contract adult education teachers.

Shall EXCLUDE:

All classified and other noncertificated employees; all substitutes in any capacity, individuals who are hired specifically to perform extra-duty assignments or who are hired on an hourly basis and are not otherwise regularly employed by the District; any employee whose primary employment is not with the District, such as sheriff's deputies in the Student and Law program; all management employees within the meaning of Government Code Section 3540.1(g), such as superintendent, assistant superintendent, assistant business manager, director of personnel, director of pupil personnel services, psychologist, director of career education, coordinator of communications and research information, principal, vice principal, director of physical education and athletics, supervisor of attendance and welfare, purchasing agent, data processing supervisor, district head operation and maintenance, school head operation and maintenance, operation and maintenance employee-DWHS, head custodian, head campus supervisor, district head transportation, assistant head transportation, district head mechanic, cafeteria manager, senior building inspector-consultant; all confidential employees within the meaning of Government Code Section 3540.1(c).

