

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



OLIVER McCLORY,)
)
Employee,) Case No. SF-OS-67
)
APPELLANT)
)
and) PERB Order No. Ad-89
)
UNITED TEACHERS OF RICHMOND,)
CTA/NEA,) ADMINISTRATIVE APPEAL
)
Employee Organization,) May 15, 1980
)
and)
RICHMOND UNIFIED SCHOOL DISTRICT,)
)
Employer.)

Appearances: Oliver McClory, representing himself; Kirsten L. Zerger, Attorney for United Teachers of Richmond, CTA/NEA.

Before Gluck, Chairperson; Gonzales and Moore, Members.

DECISION AND ORDER

Appellant, Oliver McClory, an individual teacher, here requests the Board to overturn the determination of the San Francisco regional director that the appellant is not a party to an organizational security election conducted in the Richmond Unified School District. As a result of this determination, the objections to the election submitted by appellant were dismissed and the results were verified.

Based upon our reasoning in Oakland Unified School District, 10/19/78, PERB Order No. Ad-48, we affirm the attached regional director's decision. The appeal of Oliver McClory is hereby DISMISSED.

PER CURIAM

PUBLIC EMPLOYMENT RELATIONS BOARD

San Francisco Regional Office
177 Post St., 9th Floor
San Francisco, California 94108
(415) 557-1350

PROOF OF SERVICE

March 24, 1980

Mr. Oliver McClory
c/o Richmond High School
1250 23rd Street
Richmond, CA 94804

Re: Organizational Security Election - Richmond Unified School District
SF-OS-67 ✓

Dear Mr. McClory:

On March 20, 1980, I received your objections to the March 11, 1980 organizational security election held in the Richmond Unified School District.

PERB Regulation 33580 provides that "any party to an election" may file objections to that election. In Oakland Unified School District (10/20/78), PERB Order No. Ad-48¹, the PERB defined "party to an election" in an organizational security election as the employer and the exclusive representative. The Board specifically refused to extend the right to file objections to individual employees in the negotiations unit.

I therefore find that you are not a party to the election and have no standing to file objections to the election. The objections are hereby dismissed and the election results shall be certified.

An appeal of this decision may be made to the Board itself within 10 calendar days of service of this letter by filing a statement of the facts upon which the appeal is based with the Executive Assistant to the Board, at 923 12th Street, Suite 201, Sacramento, CA 95814. Copies of any appeal must be concurrently served upon all parties and the San Francisco Regional Office. Proof of service of the appeal must be filed with the Executive Assistant.

Should you have any questions concerning this matter, please contact me.

Very truly yours,

James W. Tamm
Regional Director

cc: W. R. Lovette, Superintendent of Schools
Mr. E. Giarrocchi, Executive Director, United Teachers of Richmond

1. Currently on appeal in the Court of Appeal for the Third Appellate District, No. 3 civil 18826

I declare that I am employed in the County of SAN FRANCISCO. I am over the age of eighteen years, and not a party to the within entitled cause; my business address is 177 POST STREET, 9th FLOOR, SAN FRANCISCO, CALIFORNIA 94108.

ON March 24, 1980, I served the attached LETTER REGARDING ORGANIZATIONAL SECURITY ELECTION on the Party/ies named below by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail, at San Francisco addressed as follows:

MR. OLIVER MCCLORY
C/O RICHMOND HIGH SCHOOL
1250 23rd STREET
RICHMOND, CA 94804

W. R. LOVETTE, SUPERINTENDENT OF SCHOOLS
RICHMOND UNIFIED SCHOOL DISTRICT
1108 BISSELL AVENUE
P.O. BOX 4014
RICHMOND, CA 94804

MR. ERNIE CIARROCCI, EXECUTIVE DIRECTOR
UNITED TEACHERS OF RICHMOND, CTA/NEA
2921 MACDONALD AVENUE
RICHMOND, CA 94804

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 24, 1980 at SAN FRANCISCO, CALIFORNIA.

(Type or Print Name)

(Signature) /

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Richmond High School
1250 23rd Street
Richmond, CA 94804

Mr. James W. Tamm
177 Post Street, Suite 900
San Francisco, CA 94108

March 19, 1980

Dear Sir,

In accordance with California Administrative Code, Title 8, Part III, Section 33590(b), I request the invalidation of the March 11th PERB Agency Shop election. My reasons for this request are as follows:

(1) The election was prejudiced by reason of its timing only five days after some 393 lay-off notices were sent to teachers of the Richmond Unified School District.

(2) UTR representatives exercised unusual intimidation by having a teacher check-in inside the main entrance of at least one of the designated polling places (the Administrative Building). This type of intimidation constitutes electioneering in its most blatant form and contradicts the concept of a free election.

These serious irregularities are in violation of California Administrative Code, as cited above, and the results of the March 11th PERB election should be declared invalid.

Sincerely,
Oliver McClory

cc: Dr. Richard Lovette
Mr. Ernest Ciarrocchi