



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

REGENTS OF THE UNIVERSITY OF)
CALIFORNIA, UCLA ,)
)
Employer,)
)
and)
)
AMERICAN FEDERATION OF TEACHERS,)
LOCAL 1990,)
)
Employee Organization,)
)
and)
)
FACULTY ASSOCIATION AT UCLA,)
)
Employee Organization.)
)

Case No. SF-PC-1040

PERB Order No. Ad-106-H

ADMINISTRATIVE APPEAL

April 2, 1981

Appearances: James N. Odle, Associate Counsel for Regents of
the University of California.

Before Gluck, Chairperson; Jaeger, Moore and Tovar, Members:

ORDER

The University of California at Los Angeles appeals a denial by the Regional Director of a request for statistical election data prior to a runoff election. The University, a group of faculty members opposed to collective bargaining and the UCLA Faculty Association all seek information about the number of ballots cast in each department in the original election. The Regional Director denied requestors the information stating that the Board had never provided this type of information in the past and that providing the data in this

case would open up a flood of requests for such information in the future.

The requestors all have a vested interest in the outcome of the runoff election. Requestors have offered no reason for wanting the information other than it could be "useful" prior to the runoff election.

The PERB seeks to insure that an election will be conducted under conditions which will reflect the true desires of the employees. Confidentiality of the balloting process is of utmost importance to an election and goes beyond protecting the anonymity of individual voters. The Board finds it inappropriate to allow requestors with an interest in the outcome of the election to use the agency's confidential material to potentially affect the outcome of the election. Election data could possibly be released under some circumstances, but not, as here, where it was sought during the election.

In Getman v. NLRB (1971 D.C. Cir.) 450 F.2d 670 [78 LRRM 2101], the Court of Appeals ordered the National Labor Relations Board to accede to a request pursuant to the Freedom of Information Act and to release names and addresses of prospective voters to a group of impartial investigators studying Board processes. The Court stressed that the ruling was specific to the FOIA request, that the investigators were engaged in an independent empirical study of Board processes

and that great care was taken to avoid interfering with the election. The Court also emphasized that the voting employees were free to refuse to accept the investigator's telephone calls or to talk with the investigators. Getman is based on facts dissimilar to those of the instant case, and we find it is distinguishable.

The Board affirms the Regional Director's denial of the University's request for the reasons stated above.

PER CURIAM

PUBLIC EMPLOYMENT RELATIONS BOARD

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



December 29, 1980

Mr. Harold W. Horowitz
Vice-Chancellor for Faculty Relations
University of California, Los Angeles
Office of the Chancellor
Los Angeles, California 90024

Re: SF-PC-1040

Dear Mr. Horowitz:

Your request for statistical information regarding voter turnout by schools, colleges, and divisions was received by this office on December 22, 1980.

It has been our policy to release only such statistical data regarding elections which appears on the Tally of Ballots. I can appreciate that the requested information would be helpful to all parties to an election and that compiling the data in this particular election might not be unreasonably burdensome upon the agency. The Public Employment Relations Board has however, conducted over 775 elections to date and will no doubt be conducting many more in the future. Furthermore, many of the upcoming elections to be conducted under SEERA will be large statewide elections and other elections under HEERA could potentially be systemwide, depending upon the outcome of the unit determination process.

Providing you with the requested information would set a precedent which would be impossible for us to follow in future elections. I am therefore denying your request.

An appeal of this decision maybe 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, California 95814. Copies of any appeal must be concurrently served on 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