

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-35
 APPELLANT,)
)
 v.) Administrative Appeal
)
 LOS ANGELES COMMUNITY COLLEGE DISTRICT,) PERB Order No. Ad-119
)
 Respondent.)
)
) December 15, 1981
)
 _____)

Appearances: Howard O. Watts, representing himself.

Before Gluck, Chairperson; Moore and Tovar, Members.

DECISION

Howard O. Watts seeks review of the denial of his request that the Public Employment Relations Board (PERB) assist him in the preparation of a public notice complaint. In making the request, Mr. Watts incorrectly relied upon section 32625 of the PERB rules and regulations.¹ The regional director dismissed the request finding that such Board assistance is not mandated

¹PERB rules and regulations are codified at California Administrative Code, title 8, section 31000 et seq.

Section 32625 provides:

Board Assistance. If the charging party is unable to retain counsel or demonstrates extenuating circumstances, as determined by the Board, a Board agent may be assigned to assist such party to draft the charge or gather evidence.

in public notice complaints by either the Educational Employment Relations Act or the PERB rules and regulations.

Section 37030² provides that PERB representatives have both the power and duty to assist complainants in their preparation of public notice complaints. Nevertheless, the Board dismisses Mr. Watts' appeal. In Los Angeles Community College District, PERB Decision No. 186, issued today, we found that Watts actually did receive appropriate assistance in filing his original and amended complaints.

ORDER

The appeal by Howard Watts from an administrative determination of the regional director of the Public Employment Relations Board is hereby DISMISSED.

PER CURIAM

²Section 37030 reads, in pertinent part:

(a) When a complaint is filed, the case shall be assigned by the Regional Director to a Board agent for processing.

(b) The powers and duties of such Board agent shall be to:

(1) Assist the complainant to state in proper form the information required by Section 37020.

(2) Answer procedural questions regarding the processing of the case;

(3) Facilitate communication and the exchange of information between the complainant and the respondent or respondents;

.....
Member Tovar's concurrence begins on Page 3.

Irene Tovar, Member, concurring:

Mr. Watts' request for assistance from the Board pursuant to section 32625 of PERB's rules and regulations has raised the question of Board assistance to those wishing to file complaints with this agency. I join in the order dismissing Mr. Watts' appeal. As the Los Angeles regional director found, the type of assistance mandated by section 32625 and requested by Mr. Watts pursuant thereto is presently made available only to unfair practice complainants. Further, the application for such assistance was untimely filed, in that Mr. Watts' public notice complaint had already been dismissed without leave to amend prior to his filing the application for Board assistance. Thus, at the time he filed that application, his only available course of action regarding his complaint was to appeal that dismissal, and nowhere in our rules and regulations is Board assistance with an appeal prescribed.

While I join in the order dismissing the appeal, I feel that the decision does little to contribute any clarity to the murky question of Board assistance to PERB's complainants. Sections 37030 and 32620 of our rules and regulations make virtually identical provisions for certain limited technical assistance to public notice complainants and unfair practice complainants, respectively. Section 32625 goes further, making available to unfair practice complainants only, the following:

If the charging party is unable to retain
counsel or demonstrates extenuating

circumstances, as determined by the Board, a Board agent may be assigned to assist such party to draft the charge or gather evidence.

Without speculating as to the exact parameters of the further assistance contemplated by section 32625, I question why our rules and regulations do not make similar provision for public notice complainants. This could be read to imply some lesser degree of importance regarding public notice matters, a contention with which I would take issue. PERB should be prepared to accommodate public notice complainants when, as is so often the case, they are parents, individually or in groups, who lack legal expertise. The importance of insuring that every California citizen has effective access to the processes which we administer may require that expert Board assistance be made available to public notice complainants where appropriate and necessary. I am not satisfied that our rules and regulations as presently formulated make sufficient provision in this regard. I therefore intend to raise this issue in the context of our upcoming rule review.

Irene Tovar, Member