

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



TONY PETRICH,)	
)	
<u>Appellant,</u>)	Case No. LA-UM-368
)	
and)	PERB Order No. Ad-148
)	
CALIFORNIA SCHOOL EMPLOYEES)	August 13, 1985
ASSOCIATION,)	
)	
Employee Organization,)	
)	
and)	
)	
RIVERSIDE UNIFIED SCHOOL DISTRICT,)	
)	
Employer.)	
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Appearance: Tony Petrich, in his own behalf.

Before Hesse, Chairperson; Morgenstern and Burt, Members.

DECISION AND ORDER

BURT, Member: This case is before the Public Employment Relations Board (Board) on appeal of the attached administrative decision dismissing a unit modification petition without leave to amend. Having duly considered the appeal filed by Tony Petrich, an individual employee of the employer, the Board hereby DENIES that appeal.

Chairperson Hesse and Member Morgenstern joined in this Decision.

PUBLIC EMPLOYMENT RELATIONS BOARD

LOS ANGELES REGIONAL OFFICE
 3470 WILSHIRE BLVD., SUITE 1001
 LOS ANGELES, CALIFORNIA 90010
 (213) 736-3127



June 19, 1985

Tony Petrich
 24536 Vandenberg Drive
 Sunnymead, CA 92388

A. Alan Aldrich, Field Representative
 California School Employees Association
 326 West Katella Avenue, Suite E
 Orange, CA 92667

Charles D. Fields, Esq.
 Best, Best and Krieger
 4200 Orange Street
 Riverside, CA 92667

Re: LA-UM-368, Riverside Unified School District

Dear Interested Parties:

On June 10, 1985, Mr. Tony Petrich, assertedly as a delegated agent of the California School Employees Association, (CSEA), filed a unit modification petition seeking to remove approximately 115 employees in 28 different positions with the Riverside Unified School District, (District), from the existing unit. Mr. Petrich seeks to remove the positions from the existing wall classified unit pursuant to PERB Regulation 32781(b)(5) and (b)(5)(c) which reads as follows:

- (b) A recognized or certified employee organization an employer, or both jointly may file with the regional office a petition for change in unit modification: (emphasis added)
- (5) To delete classification(s) or position(s) . . . which are not appropriate to the unit because said classification(s) or position(s) are management, supervisory or confidential provided that:
- (c) The petition is filed during the "window period" of a lawful written agreement or memorandum of understanding as defined in those regulations in Section 33020 for EERA . . .

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The petition was filed apparently during the window period of the current lawful written agreement. (Effective dates of October 4, 1982 - September 30, 1985.) The question to be considered is whether Mr. Petrich is a recognized or certified employee organization. (Mr. Petrich does not contend that he is an employer.)

Mr. Petrich relies upon a complaint which issued in unfair practice charge number LA-CE-2112 in which the Regional Attorney inadvertently alleged that Mr. Petrich as charging party, is an employee organization. The District in its answer to the complaint admitted, again inadvertently, that Mr. Petrich is a labor organization. An order amending the complaint to delete the paragraph alleging Mr. Petrich's status as an employee organization has since issued by the Administrative Law Judge assigned the case.

The definition of employee organization is found at Government Code Sec. 3540.1(d)

"Employee organization" means 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. "Employee organization" should also include any person such an organization authorizes to act on its behalf.

When I contacted Mr. Aldrich, on June 13, 1985, CSEA Field Representative assigned to the Riverside Unified School District, he indicated that neither he nor CSEA had delegated authority to Mr. Petrich to act on behalf of the exclusive representative on any matter.

Due to Mr. Aldrich's representation that Mr. Petrich has no, nor had no authority to file the petition on behalf of CSEA, to rely on the clerical error created by the unfair practice complaint and answer as a basis for finding Mr. Petrich an employee organization, would be to ignore the obvious and compound what was clearly a typographical mistake. Further PERB Regulations require that a unit modification request be filed by an employer recognized or Board certified employee organization, Therefore, the instant petition is hereby DISMISSED WITHOUT LEAVE TO AMEND.

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An appeal of this decision pursuant to PERB Regulation 32360 may be made within 10 calendar days following the date of service of this decision by filing an original and 5 copies of a statement of the facts upon which the appeal is based with the Board itself at 1031 - 18th Street, Suite 200, Sacramento, California 95814. Copies of any appeal must be concurrently served upon all parties and the Los Angeles Regional Office. Proof of service pursuant to Regulation 32140 is required.

Sincerely

Robert R. Bergeson
Regional Director

Roger Smith
Labor Relations Specialist

RS/gml