

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



LUDY M. VELDHUIZEN AND ANNE C.)
(CILE) SHYNE,)
)
Charging Party,) Case No. S-CE-44-H
)
v.) Administrative Appeal
)
THE REGENTS OF THE UNIVERSITY) PERB Order No. Ad-210-H
OF CALIFORNIA,)
)
Respondent.)
)
)

Appearances: Kevin S. Robinson, Attorney, for Ludy M. Veldhuizen and Anne C. (Cile) Shyne; Claudia Cate, Attorney, for The Regents of the University of California.

Before Hesse, Chairperson; Craib and Shank, Members.

DECISION

SHANK, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by The Regents of the University of California (University) of the administrative law judge's (ALJ) denial of the University's motion to quash the complaint. The University's motion is predicated on its assertion that the charge was untimely filed. The University also filed a request for stay of the unfair practice hearing, pursuant to PERB Regulation 32370,¹ requesting that PERB stay the

¹PERB Regulations are codified at California Administrative Code, title 8, section 31001 et seq. Section 32370 states in pertinent part:

Parties seeking a stay of any activity may file a request for a stay with the administrative appeal which shall include all pertinent facts and justification for the request. The Board may stay the matter, except as is otherwise provided in these regulations.

unfair practice hearing in the instant case, which hearing is currently scheduled for five days beginning June 25.

PERB Regulation 32190, subdivision (f) provides that:

"Rulings on motions shall not be appealable except as specified in sections 32200 and 32646."² PERB Regulation 32200 provides, in pertinent part, as follows:

A party may object to a Board agent's interlocutory order or ruling on a motion and request a ruling by the Board itself. . . . The Board agent may refuse the request, or may join in the request and certify the matter to the Board. The Board itself will not accept the request unless the Board agent joins in the request. The Board agent may join in the request only where all of the following apply:

- (a) The issue involved is one of law;
- (b) The issue involved is controlling in the case;
- (c) An immediate appeal will materially advance the resolution of the case.
(Emphasis added.)

On May 22, 1990, the ALJ, who denied the University's motion to quash the complaint, declined to join the University's interlocutory appeal because he did not believe an immediate appeal would materially advance the resolution of this case. Since the ALJ has refused to join in the instant appeal, the Board is precluded by Regulation 32200 from granting the University's request that it review the ALJ's denial of its

²PERB Regulation 32646 does not apply here.

motion to quash the complaint.³ Having disposed of the appeal, we also deny the University's request for stay of the unfair practice hearing.

ORDER

The Board DENIES the University's appeal of the Board agent's order and request that the Board agent certify the appeal, DENIES the University's request for stay of the unfair practice hearing, and INSTRUCTS the ALJ to proceed with the hearing.

Chairperson Hesse and Member Craib joined in this Decision.

³See State of California (Department of Water Resources, Department of Developmental Services) (1981) PERB Order No. Ad-122-S, page 4. Board restricted discussion to issues which had been certified by hearing officer.