



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

LOS ANGELES CITY AND COUNTY)
EMPLOYEES, SERVICE EMPLOYEES)
INTERNATIONAL UNION, LOCAL 99,)
AFL-CIO,)
)
Charging Party,) Case No. LA-CE-3189
)
v.) Administrative Appeal
)
LOS ANGELES UNIFIED SCHOOL DISTRICT,) PERB Order No. Ad-249
)
Respondent.) October 28, 1993
)
_____)

Appearances: Taylor, Roth, Bush & Geffner by Hope J. Singer, Attorney, for Los Angeles City and County Employees, Service Employees International Union, Local 99, AFL-CIO; Jesus Estrada-Melendez, Attorney, for Los Angeles Unified School District.

Before Caffrey, Carlyle and Garcia, Members.

DECISION AND ORDER

CAFFREY, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the Los Angeles City and County Employees, Service Employees International Union, Local 99, AFL-CIO (Local 99) of a Board agent's denial of Local 99's request for an extension of time to file a response to exceptions which were filed by the Los Angeles Unified School District (District) in Case No. LA-CE-3189.

In accordance with PERB Regulation 32132,¹ the Board finds

¹PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Regulation 32132(a) states, in pertinent part:

Extensions of time may be granted by the Board itself or an agent designated by the Board itself for good cause only.

that good cause exists to grant the extension of time requested by Local 99.

Accordingly, Local 99's request for an extension of time in which to file a supplemental response to exceptions which were filed by the District in Case No. LA-CE-3189 is HEREBY GRANTED. The due date for a supplemental response will be 20 days from date of service of this Decision.

Member Garcia joined in this Decision.

Member Carlyle's concurrence begins on page 3.

Carlyle, Member, concurring: I write separately so that my reasons and rationale are set forth for present and future use as deemed appropriate by those who do and will appear before us.

It seems to me that the purpose and role of the Public Employment Relations Board (PERB or Board) in issuing decisions is to not only decide the issues before it on any given case but to also state its reasons, logic, thinking, rationale, etc. so that the parties before it and those who will appear before it have some idea, or guidance, as to what the Board may do on similar issues in the future.

Reading the majority decision, such guidance is simply not there. Reading the majority decision, one first observes that PERB Regulation 32132(a)¹ is properly cited, in pertinent part:

Extensions of time may be granted by the Board itself or an agent designated by the Board itself for good cause only.

However, one next notes that the majority decision then simply states "the Board finds that good cause exists to grant the extension of time requested by Local 99."²

I am struck by two aspects of this resolution. First, the PERB regulation in question does not define good cause. Second, neither does the majority decision. Is the request being granted because of a heavy workload? Is the request being granted because the other party received a prior extension, albeit for a different part of the process? Or, is the request being granted

¹PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

²Los Angeles City and County Employees, Service Employees International Union, Local 99, AFL-CIO (Local 99).

for some other reason? No one can tell by reading the majority decision.

As for myself, I prefer to apply (and let the parties know) the general standard enunciated in California State University (Watts) (1984) PERB Decision No. 468-H:

We feel the proper approach is to weigh the nature of the reasons asserted to be "good cause" against the length of the delay and the possible prejudice to the opposing party. In general, for "good cause" to be found, a party's request for an extension should be based on circumstances that are unanticipated or beyond the party's control.

Applying said general standard to the salient facts in the case at bar, I agree with granting Local 99's request for a 20-day extension of time in which to file a response to the exceptions filed by the Los Angeles Unified School District (District).

It is initially noted that the District requested and received an extension of time in which to file its exceptions to the administrative law judge's proposed decision. Such request was made and granted so that the District could obtain and review a copy of the transcript prior to filing its exceptions. Local 99 did not object to this request. Because of the time needed to prepare said transcript, the result of the extension amounted to an approximate seven week delay (from June 4, 1993 to July 23, 1993) compared to when the District's exceptions would have been originally required to be filed.

As a result of this seven week delay, the time frame for filing a response to the exceptions by Local 99 apparently coincided with a particularly heavy workload, thus prompting a

somewhat modest (compared to seven weeks) 20-day extension request. Further, the request to file a thorough response to the District's exceptions was also prompted in part by the length of the District's exceptions.

I therefore conclude that the totality or combination of facts in this case collectively meets the standard of good cause as set forth in California State University (Watts), supra, PERB Decision No. 468-H, to wit: 1) An extension of time had been granted to one party, resulting in a seven week delay in the appeal perfection process; 2) by comparison, the request before the Board at this time was for a 20-day extension by the other party; 3) the initial seven week extension resulted in a response due during a particularly heavy workload period for Local 99; and 4) the District's exceptions were rather lengthy in nature, thus necessitating more than a "boilerplate" response by Local 99.

I see no possible prejudice to the opposing party in the granting of this request. Indeed, it appears that the circumstances which caused Local 99's request were driven in large part, if not exclusively, by the District. Accordingly, the 20-day extension should be granted.