

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



GEORGE SARKA,

Charging Party,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Respondent.

Case No. LA-CE-811-H

Request for Reconsideration
PERB Order No. Ad-337-H

PERB Order No. Ad-337a-H

August 19, 2004

Appearance: George Sarka, on his own behalf.

Before Duncan, Chairman; Whitehead and Neima, Members.

DECISION

WHITEHEAD, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by George Sarka (Sarka) of the Board's decision in Regents of the University of California (2004) PERB Order No. Ad-337-H (Regents). In Regents, the Board denied Sarka's request for special permission under PERB Regulation 32155¹ to appeal a Board agent's refusal to disqualify herself from investigation of his unfair practice charge.

Sarka seeks reconsideration because: (1) the Board failed to explain the basis for its denial, and (2) the Board failed to address his reasons for requesting the removal of the Board agent from his case. The second item includes a request that the Board provide complete disclosure of the Board agent's association with the "UCLA/UC Corporation" and that of

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

anyone else involved in the adjudication of the case if the Board denies his request for special permission to appeal. Sarka's stated purpose for the request for disclosure was to ensure that there are no conflicts of interest.

DISCUSSION

Requests for reconsideration are governed by PERB Regulation 32410. PERB Regulation 32410 provides, in pertinent part:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case. [Emphasis added.]

In the request, Sarka did not state either of the grounds for reconsideration and so the request is denied.

In addition, under PERB Regulation 32155, Sarka may "file an appeal, after hearing or investigation and issuance of the decision, setting forth the grounds of the alleged disqualification along with any other exceptions to the decision on its merits."

ORDER

George Sarka's request for reconsideration of the Board's decision in Regents of the University of California (2004) PERB Order No. Ad-337-H is hereby DENIED.

Chairman Duncan and Member Neima joined in this Decision.