

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



COMPTON UNIFIED SCHOOL DISTRICT,

Employer,

and

COMPTON UNIFIED SCHOOL DISTRICT
POLICE MANAGEMENT POLICE OFFICERS
ASSOCIATION,

Petitioner,

and

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 99,

Exclusive Representative.

Case No. LA-SV-155-E

Administrative Appeal

PERB Order No. Ad-385

October 18, 2010

Appearance: Timothy Wilson, Agent, for Compton Unified School District Police Management Police Officers Association.

Before Dowdin Calvillo, Chair; McKeag and Wesley, Members.

DECISION

McKEAG, Member: This case comes before the Public Employment Relations Board (Board) on appeal by the Compton Unified School District Police Management Police Officers Association (Association) of a dismissal (attached) of its severance petition by a Board agent. The severance petition sought to sever the police department supervisors from their current bargaining unit represented by the Service Employees International Union, Local 99 and to create a new six person unit of supervisors represented by the Association. The Board agent dismissed the petition as untimely pursuant to section 3544.7 of the Educational Employment Relations Act (EERA).¹

¹ EERA is codified at Government Code section 3540 et seq.

We have reviewed the entire record in this matter and find the dismissal of the petition was well-reasoned, adequately supported by the record and in accordance with applicable law. Accordingly, the Board hereby adopts the Board agent's dismissal of the petition as the decision of the Board itself.

ORDER

The severance petition in Case No. LA-SV-155-E is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Chair Dowdin Calvillo and Member Wesley joined in this Decision.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3530 Wilshire Blvd., Suite 1435
Los Angeles, CA 90010-2334
Telephone: (213) 736-2907
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December 8, 2008

Timothy Wilson, Sergeant
Compton Unified School District
500 S. Santa Fe Ave.
Compton, CA 90220

Jonathan Cohen, Attorney
Rothner, Segall & Greenstone
510 South Marengo Avenue
Pasadena, CA 91101-3115

Dr. Kaye E. Burnside, Superintendent
Compton Unified School District
501 S. Santa Fe Ave.
Compton, CA 90221

Re: Compton Unified School District
Case No. LA-SV-155-E
DISMISSAL OF PETITION

Dear Interested Parties:

On , the Public Employment Relations Board (PERB or Board) received a copy of a severance request, pursuant to PERB Regulation 33700,¹ from the Police Management Police Officers Association (Association) for a unit of Police Supervisors.

The parties were informed in the attached Order to Show Cause, dated October 21, 2008, that severance requests, such as the petition filed in this case, may only be filed during the appropriate "window period" or "the 29-day period established pursuant to Government Code sections 3544.1(c) and 3544.7(b)(1) which is less than 120 days, but more than 90 days, prior to the expiration of a lawful written agreement negotiated by the public employer and the exclusive representative." (PERB Regulations 33020; 33700.) According to Service Employees International Union, Local 99 (Local 99), the employees at issue in the Association's petition are included in a unit of classified supervisors exclusively represented by Local 99. Local 99 also asserts that it is party to a written agreement with the Compton Unified School District (District) that expires by its own terms on June 30, 2009.

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Copies may be purchased from PERB's Publications Coordinator, 1031 18th Street, Sacramento, CA 95811-4124, and the text is available at www.perb.ca.gov.

For these reasons, the Association was given the opportunity to SHOW CAUSE as to why the severance request should not be dismissed as falling outside the "window period" described in PERB Regulations 33020 and 33700.

On December 1, 2008, I contacted Timothy Wilson, representative of the Association, to determine whether he received the Order to Show Cause. He stated that he did not receive it and PERB sent him a copy via facsimile that same day. On December 4, 2008, the Association responded to the Order to Show Cause.² In its response, the Association suggests that Local 99 has not negotiated effectively on behalf of Police Supervisors and contends that the Association would be more effective. However, the Association does not establish either that the request was filed during the "window period" described in PERB Regulations 33020 and 33700 or that the Association was not required to comply with these Regulations. Accordingly, the Association does not demonstrate that the severance request was timely filed and it is dismissed.

Right of Appeal

An appeal of this decision to the Board itself may be made within ten (10) calendar days following the date of service of this decision. (Cal. Code Regs., tit. 8, sec. 32360.) To be timely filed, the original and five (5) copies of any appeal must be filed with the Board itself at the following address:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street, Suite 200
Sacramento, CA 95811-4124
(916) 322-8231
FAX: (916) 327-7960

A document is considered "filed" when actually received during a regular PERB business day. (Cal. Code Regs., tit. 8, sec. 32135(a) and 32130; Gov. Code, sec. 11020(a).) A document is also considered "filed" when received by facsimile transmission before the close of business together with a Facsimile Transmission Cover Sheet which meets the requirements of Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Cal. Code Regs., tit. 8, sec. 32135(b), (c) and (d); see also Cal. Code Regs., tit. 8, secs. 32090 and 32130.)

The appeal must state the specific issues of procedure, fact, law or rationale that are appealed and must state the grounds for the appeal (Cal. Code Regs., tit. 8, sec. 32360(c)). An appeal will not automatically prevent the Board from proceeding in this case. A party seeking a stay

² The Association does not include a "proof of service" on Local 99 and the District, as required by PERB Regulation 32140. For this reason, a copy of the Association's December 4, 2008 response is included with this letter.

of any activity may file such a request with its administrative appeal, and must include all pertinent facts and justifications for the request (Cal. Code Regs., tit. 8, sec. 32370).

If a timely appeal is filed, any other party may file with the Board an original and five (5) copies of a response to the appeal within ten (10) calendar days following the date of service of the appeal (Cal. Code Regs., tit. 8, sec. 32375).

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding and on the regional office. A "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself (see Cal. Code Regs., tit. 8, sec. 32140 for the required contents). The document will be considered properly "served" when personally delivered or deposited in the mail or deposited with a delivery service and properly addressed. A document may also be concurrently served via facsimile transmission on all parties to the proceeding. (Cal. Code Regs., tit. 8, sec. 32135(c).)

Extension of Time

A request for an extension of time in which to file an appeal or opposition to an appeal with the Board itself must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party (Cal. Code Regs., tit. 8, sec. 32132).

Sincerely,

~~Eric J. Cu~~
Regional Attorney

EC

Enclosures