



STATE OF CALIFORNIA
 DECISION OF THE
 PUBLIC EMPLOYMENT RELATIONS BOARD

EARLY CHILDHOOD FEDERATION)	
OF TEACHERS, LOCAL 1475, AFT,)	
)	
Charging Party,)	Case No. LA-CE-1142
)	
v.)	PERB Decision No. 140
)	
REDONDO BEACH CITY SCHOOL)	
DISTRICT,)	
)	October 14, 1980
Respondent, <u>APPELLANT</u> .)	

Appearances: Lawrence Rosenzweig, Attorney (Levy & Goldman) for early Childhood Federation of Teachers, Local 1475, AFT; David G. Miller, Attorney for Redondo Beach City School District.

Before Gluck, Chairperson; Moore, Member

DECISION AND ORDER

This case comes before the Public Employment Relations Board (hereafter PERB or Board) on exceptions taken by the Redondo Beach City School District (hereafter District) to the hearing officer's proposed decision. The District excepts to the hearing officer's finding that the District violated sections 3543.5(b) and (c) of the Educational Employment

Relations Act¹ by refusing to meet and negotiate with the Early Childhood Federation, Local 1475, AFT.

The Board has considered the record and the proposed decision in light of the District's exceptions and brief, and affirms the hearing officer's findings of fact, discussion, and conclusions of law. The proposed order of the hearing officer is adopted as the order of the Board itself.

PER CURIAM

1-The Educational Employment Relations Act is codified at Government Code Section 3540 et seq.

Sections 3543.5 (b) and (c) provide:

It shall be unlawful for a public school employer to:

.....

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Refuse or fail to meet and negotiate in good faith with an exclusive representative.

PUBLIC EMPLOYMENT RELATIONS BOARD
OF THE STATE OF CALIFORNIA



EARLY CHILDHOOD FEDERATION
OF TEACHERS, LOCAL 1475, AFT,

Charging Party,

v.

REDONDO BEACH CITY SCHOOL
DISTRICT,

Respondent.

Unfair Practice
Case No. LA-CE-1142

PROPOSED DECISION

(5/30/80)

Appearances; Lawrence Rosenzweig, Attorney (Levy & Goldman) for Early Childhood Federation of Teachers, Local 1475, AFT; David B. Miller, Attorney (Paterson & Taggart) for Redondo Beach City School District.

Before Bruce Barsook, Hearing Officer.

PROCEDURAL HISTORY

On April 22, 1980, the Early Childhood Federation of Teachers, Local 1475, AFT (hereafter Federation) filed an unfair practice charge against the Redondo Beach City School District (hereafter District) alleging a violation of section 3543.5 (b) and (c) of the Educational Employment Relations Act (hereafter EERA)¹. The basis of the charge is the District's refusal to meet and negotiate with the Federation.

¹The EERA is codified at Government Code section 3540 et seq. All statutory references are to the Government Code unless otherwise specified.

The District filed its answer on May 13, 1980 and on May 23 a formal hearing was held. No briefs were filed by the parties and so the matter was submitted as of May 23, 1980.

FINDINGS OF FACT

The material facts in this case are not in dispute. The Federation is the exclusive representative of all children's center teachers in the District.² On April 15, 1980 the Federation made a request to the District to meet and negotiate. By letter dated April 17, 1980 and signed by David Miller, attorney for the District, the District notified the Federation of its refusal to meet and negotiate on the grounds that the Federation did not represent a unit appropriate for negotiating.

ISSUE

1. Whether the District's refusal to meet and negotiate violates the EERA.

CONCLUSIONS OF LAW

The Federation argues that the actions of the District constitute a refusal to meet and negotiate and therefore a

² In writing this decision the hearing officer has taken official notice of representation case file LA-R-430B. That case file discloses that: the District is a public school employer within the meaning of the EERA; the Federation is an employee organization within the meaning of the EERA; pursuant to an order by the Public Employment Relations Board (Redondo Beach City School District (1/17/80) PERB Decision No. 114), a representation election was held in the unit; the Federation received a majority of valid votes cast; and was certified by PERB as the exclusive representative on April 15, 1980.

violation of section 3543.5(b) and (c). Section 3543.5(b) and (c) provides:

It shall be unlawful for a public school employer to:

.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Refuse or fail to meet and negotiate in good faith with an exclusive representative.

The District's sole defense is that the PERB's decision in Redondo Beach City School District (1/17/80) PERB Decision No. 114, was incorrectly decided in that a unit of children's center teachers is inappropriate for negotiating.

In the absence of the presentation of newly discovered or previously unavailable evidence or special circumstances relitigation of PERB's unit determination is not warranted. PERB's unit determination is therefore binding precedent. Since the Federation was the exclusive representative of an appropriate unit, the District's admitted refusal to meet and negotiate constitutes a violation of section 3543.5(c).

In addition to alleging a violation of section 3543.5(c), the Federation has also alleged that the District's action violates section 3543.5(b). In San Francisco Community College District (10/12/79) PERB Decision No. 105, the PERB held that section 3543.5(b) was a derivative violation of a section 3543.5(c) violation. Consequently, the District has also violated section 3543.5(b) in addition to section 3543.5(c).

REMEDY

Under Government Code section 3541.5(c), the Public Employment Relations Board is given:

. . . the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, . . . as will effectuate the policies of this chapter.

Having found that the District has engaged in and is engaging in unfair practices within the meaning of section 3543.5(b) and (c) of the EERA, the District is ordered to cease and desist therefrom, and, upon request, meet and negotiate with the Federation as the exclusive representative of all employees in the appropriate unit, and if an understanding is reached, embody such understanding in a signed agreement.

Furthermore, in order that the employees in the appropriate unit will be accorded the services of their selected representative for the period provided by law, the initial period of certification shall be construed as beginning on the date the District commences to negotiate in good faith with the Federation as the recognized exclusive representative in the appropriate unit. See Mar-Jac Poultry Co., Inc. (1962) 136 NLRB 785; Commerce Co. d/b/a Lamar Hotel (1962) 140 NLRB 226, 229, enfd. (5th Cir. 1964) 328 F.2d 600, cert. denied (1964) 379 U.S. 817.

It is also appropriate that the District be required to post a notice incorporating the terms of the order. Posting of

such a notice will provide employees with notice that the District has acted in an unlawful manner and is being required to cease and desist from this activity and to restore the status quo. It effectuates the purposes of the EERA that employees be informed of the resolution of the controversy and will announce the District's readiness to comply with the ordered remedy. See Placerville Union School District (9/18/78) PERB Decision No. 69. In Pandol and Sons v. ALRB and UFW (1979) 98 Cal.App.3d 580, 587, the California District Court of Appeal approved a posting requirement. The U.S. Supreme Court approved a similar posting requirement in NLRB v. Express Publishing Co. (1941) 312 U.S. 426 [8 LRRM 415].

PROPOSED ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, and pursuant to Government Code section 3541.5(c), it is hereby ordered that the Redondo Beach City School District, its governing board and its representatives shall:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and negotiate in good faith with the exclusive representative, Early Childhood Federation of Teachers, Local 1475, AFT.

2. Denying the Federation its right to represent unit members by failing and refusing to meet and negotiate about matters within the scope of representation.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE PURPOSES OF THE EERA:

1. Upon request, meet and negotiate with the above-named employee organization as the exclusive representative of all children's center teachers, and, if an understanding is reached, embody such understanding in a signed agreement.

2. Within five days of the date the proposed decision becomes final, post at all school sites, and all other work locations where notices to employees customarily are placed, copies of the notice attached as an appendix hereto. Such posting shall be maintained for a period of thirty (30) consecutive work days. Reasonable steps shall be taken to ensure that said notices are not altered, defaced or covered by any other material.

3. Notify the Los Angeles Regional Director of the Public Employment Relations Board, in writing, of the action to comply with this order at the end of the posting period.

Pursuant to California Administrative Code, title 8, part III, section 32305, this Proposed Decision and Order shall become final on June 19, 1980 unless a party files a timely statement of exceptions. See California Administrative Code, title 8, part III, section 32300. Such statement of exceptions and supporting brief must be actually received by the Executive Assistant to the Board at the headquarters office of the Public Employment Relations Board in Sacramento before the close of

business (5:00 p.m.) on June 19, 1980 in order to be timely filed. See California Administrative Code, title 8, part III, section 32135. Any statement of exceptions and supporting brief must be served concurrent with its filing upon each party to this proceeding. Proof of service shall be filed with the Board itself. See California Administrative Code, title 8, part III, sections 32300 and 32305, as amended.

Dated: May 30, 1980

BRUCE BARSOOK
Hearing Officer

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California



After a hearing in the unfair practice Case No. LA-CE-1142 in which all parties had the right to participate, it has been found that the Redondo Beach City School District has violated section 3543.5(c) of the Educational Employment Relations Act (EERA) by refusing to meet and negotiate in good faith with the Early Childhood Federation of Teachers, Local 1475, American Federation of Teachers.

It has also been found that this same conduct has violated section 3543.5 (b) of the EERA since it interfered with the right of the Federation to represent its members.

As a result of this conduct, we have been ordered to post this Notice, and we will abide by the following:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and negotiate in good faith with the exclusive representative, Early Childhood Federation of Teachers, Local 1475, AFT.
2. Denying the Federation its right to represent unit members by failing and refusing to meet and negotiate about matters within the scope of representation.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE EERA:

1. Upon request, meet and negotiate with the above-named employee organization as the exclusive representative of all

children's center teachers, and, if an understanding is reached, embody such understanding in a signed agreement.

DATED:

REDONDO BEACH CITY SCHOOL DISTRICT

By- _____
Superintendent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR THIRTY (30) CONSECUTIVE WORK DAYS FROM THE DATE OF POSTING AND MUST NOT BE DEFACED, ALTERED OR COVERED BY ANY MATERIAL.