STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

RIO HONDO FACULTY ASSOCIATION, CTA/NEA,	)	
Charging Party,	)	Compliance Case No. LA-C-64
v.	)	PERB Decision No. 279b
RIO HONDO COMMUNITY COLLEGE DISTRICT,	)	June 30, 1986
Respondent.	)	

Appearances; Charles R. Gustafson, Attorney for Rio Hondo Faculty Association, CTA/NEA; Wagner, Sisneros & Wagner by Patrick D. Sisneros for Rio Hondo Community College District.

Before Hesse, Chairperson; Burt and Porter, Members.

DECISION

HESSE, Chairperson: Rio Hondo Faculty Association, CTA/NEA (Association) appeals a decision, attached hereto, of a compliance officer of the Public Employment Relations Board (PERB or Board). The compliance officer found that the collective bargaining agreement signed on June 10, 1981 by the Association and the Rio Hondo Community College District (District) established a new class size status quo, which terminated the District's duty to return class size maximums to pre-1979 Spring semester levels. He also ruled that the District's liability for overload pay was based on the increase in maximum class size caused by the District's unilateral change, rather than total enrollment, but that such liability would terminate at the beginning of the Fall 1981 semester.

For the reasons which follow, we affirm the findings of fact and conclusions of law reached by the compliance officer. Because of a misstatement in the Order, we modify it consistent with the discussion below.

PROCEDURAL HISTORY AND FACTUAL SUMMARY

In the underlying decision (PERB Decision No. 279), the Board found that the District unilaterally increased the class size maximums for specified courses in the Business Department beginning in the Spring of 1979. In that decision, the Board ordered the District to return class size maximums to the levels maintained prior to Spring 1979 and to pay all affected instructors "overload pay," i.e., a premium wage based on the number of students registered in excess of the pre-1979 Spring semester maximum class size.

In its request for reconsideration of PERB Decision 279, the District argued that it had reached agreement with the Association concerning the former's unlawful conduct. The Board granted the District's request for reconsideration of the remedy and modified its order to permit termination of the back pay award at the date upon which the parties reached agreement or impasse. (PERB Dec. No. 279a.)

A hearing was conducted to determine if the District had complied with the revised Board order. The District stated that it had not yet complied with paragraph B.3 of Decision No. 279a because it could not reach agreement with the Association as to whether the parties had reached a negotiated agreement

concerning the subject of maximum class size. Further, it had not compensated the affected instructors with overload pay as ordered by the Board.

Two issues were presented to the PERB compliance officer: (1) Did the parties' collective bargaining agreement (signed June 10, 1981) terminate the District's duty to return class size maximums to the pre-1979 Spring semester levels and, accordingly, limit the District's liability for overload pay? (2) Did the Board intend for the District to compensate the accounting instructors for all students enrolled in excess of the pre-1979 Spring levels, or was the District's liability to be calculated based on the number of students per class by which it raised the class-size maximums?

Relying on Pittsburg Unified School District (1984) PERB Decision No. 318a, the compliance officer concluded that the 1981 agreement terminated the District's liability.[1] The compliance officer found the "basic subject matter" of class

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[1]In Pittsburg Unified School District, supra, the Board held:

> We disagree with the Association's argument that . . . back pay should terminate only when a subsequently negotiated agreement specifically addresses the conduct complained of in the unfair practice charge itself. In order to terminate liability for back pay, a subsequently negotiated agreement need only address the basic subject matter of the unilateral change, and need not constitute a "waiver" by the Association of its claim that the District acted unlawfully. (Emphasis added.)

size was addressed in the parties' collective bargaining agreement effective June 11, 1981.

With respect to the overload pay issue, the compliance officer found that the District's overload pay liability would be limited to the increase in students registered as a consequence of the District's unilateral change. The compliance officer found that compensating instructors for those additional students whom they had voluntarily admitted to their classes could be viewed as a punitive rather than a remedial measure, since instructors had never before been paid extra for excess students they had voluntarily admitted.

DISCUSSION

Termination of Back Pay

The compliance officer properly concluded that the 1981 agreement terminated the District's liability for back pay. As the hearing officer noted, pursuant to our decision in Pittsburg, supra, only the "basic subject matter" need be addressed to terminate liability. It was also proper for him to find that the 1981 agreement altered the status quo, and that reducing class size maximums to the pre-1979 level was therefore inappropriate.[2]

[2]The Board has previously declined to order restoration of the status quo where such action "would not effectuate the purposes of the Act." (See Modesto City and High School Districts (1986) PERB Decision No. 566, Rio Hondo Community College District (1983) PERB Decision No. 279a, Delano Union Elementary School District (1982) PERB Decision No. 213a.)

Furthermore, not only did the June 10, 1981 agreement cover the "basic subject matter" of class size, so did two subsequent agreements.[3] A new status quo was created through the negotiation process. To ignore these agreements would be, in effect, a repudiation of that process.

Amount of Overload Pay

In PERB Decision No. 279, the Board ordered the District to

> Pay to all District instructors of Introduction to Accounting and Principles of Accounting A & B courses overload pay for all students registered . . . in excess of the maximum class size prior to such spring semester 1979. . . .

The compliance officer found that the key to the Board's intent was not the word "all," but the phrase "maximum class size prior to such spring semester 1979." Reasoning that the term "maximum class size" took into account the past practices of the parties, including practices of the parties affecting consensual class size maximums, the compliance officer ordered overload pay for

> all District instructors who taught Introduction to Accounting or Principles of Accounting [1]A and [1]B from spring semester 1979 to fall semester 1981 for every student registered during that period in excess of the maximum class size stated in the Master Course Data File immediately

[3]The agreement signed June 10, 1981, was effective through June 30, 1983. An amended agreement dated October 27, 1982, had effective dates of October 28, 1982 through June 30, 1983, and a subsequent agreement dated June 13, 1986, had effective dates of July 1, 1983 through June 30, 1986. Each of the subsequent agreements contained an identical Article 8 entitled Class Size.

before the 1979 spring semester, without consent of the course instructor.

We find the compliance officer properly analyzed PERB Decisions 279 and 279a in finding no intent to award overload pay where the instructors consensually admitted additional students above the unilaterally increased maximum class size. Central to the District's violation is its unilateral decision to permit the registration of students in numbers over and above the maximum class size established prior to the 1979 Spring semester. The number of students that instructors voluntarily registered in excess of the unilaterally increased maximum class size, however, falls outside of the District's wrongful action. The actual practice in the District showed that instructors did not receive overload pay for such consensually admitted additional students.

While we agree with the analysis of the compliance officer, however, he mistakenly used the term "Master Course Data File" in his Order as the benchmark for determining the maximum class size for purposes of calculating overload pay. In its original decision, the Board found that the District's Master Course Data File did not conform to the actual practice in the District. While the data file showed no increase in maximum class size, the testimony of an accounting instructor, corroborated by course registration documents, showed increases in class size maximums. The Board, in reliance on the testimony and documents, found that the District unilaterally increased the

maximum class size for the affected accounting courses. (PERB Dec. No. 279 at pp. 20-22.)

Based on the Board's previous treatment of the Master Course Data evidence, it follows that the data file should not be used in determining the amount of overload pay to which the business instructors are entitled. Instead, the maximum class size as reflected in the registration documents is the appropriate benchmark to use in determining the amount of overload pay. The evidence indicates that in the Spring of 1979, the District increased the maximum class sizes by five students. The registration documents indicate, however, that the maximum class sizes were temporarily returned in the Fall of 1979 to their levels prior to the unilateral change. Then, in the Spring of 1980, the maximum sizes were again increased, this time by ten students. In the Fall of 1980, however, the classes were apparently reduced by five to the higher level set in the Spring of 1979.

At the compliance hearing, the District presented evidence that all students officially registered were listed on a "permanent roll sheet," which is issued to instructors during the third week of the semester.[4] The District receives its apportionment funds from this record.[5] Since the first accurate listing of the actual number of students enrolled in

[4]See Compliance Transcript, page 22.

[5]"Apportionment" is that amount of money allotted to each community college by the state.

class appears on the permanent roll sheet,[6] we find that this document should be used to calculate the instructors' overload pay. Where students were enrolled subsequent to the sheets being printed,[7] these changes must be added to the calculations. In no event shall overload pay calculations include any students registered in excess of the unilaterally increased maximum class sizes.

ORDER

Upon the foregoing facts, 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 Rio Hondo Community College District shall:

1. Pay overload pay to all District instructors who taught Introduction to Accounting 152 or Principles of Accounting 1A and 1B for Spring semester 1979 to Fall semester 1981 for every student whose name appears on the permanent roll sheet for such semester in excess of the maximum class size established by the practice immediately before the 1979 Spring semester up to the unilaterally established maximum class size for that semester. Such payment shall include interest at the rate of 7 percent.

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[6]Many students appear on the temporary roll sheet who do not attend class. Many other students are added during the first few class sessions.

[7]At the compliance hearing, a District witness (Jenkins) testified that occasionally additions were made to the permanent roll sheets by instructors. (Compliance TR p. 27.) Where these handwritten additions occur, they should be added to the calculations.

2. Written notification of the actions taken to comply with this Order shall be made to the regional director of the Public Employment Relations Board in accordance with his instructions.

This Order shall become effective immediately upon service of a true copy thereof upon the Rio Hondo Community College District.

Members Burt and Porter joined in this Decision.

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

RIO HONDO FACULTY ASSOCIATION, CTA/NEA, Charging Party, v. RIO HONDO COMMUNITY COLLEGE DISTRICT, Respondent.	Compliance Case No. LA-C-64 [PERB Decision No. 279(a) (LA-CE-1157)] PROPOSED DECISION (4/15/85)

Appearance: Charles R. Gustafson, Attorney, for Rio Hondo Faculty Association, CTA/NEA; Patrick D. Sisneros, (Wagner, Sisneros and Wagner), Attorney for the Rio Hondo Community College District.

Before; Roger Smith, Hearing Officer.

PROCEDURAL HISTORY

The underlying unfair labor practice charge, filed on May 27,1980 alleged that the Rio Hondo Community College District, (hereafter District), unilaterally changed various working conditions of employees in violation of Government Code section 3543.l(a), (b) and (c). A complaint was issued by the Public Employment Relations Board (hereafter PERB or Board) on August 26, 1980. The Rio Hondo Faculty Association CTA/NEA, (hereafter Association), filed an amendment to the unfair practice charge on December 18, 1980.

After settlement conferences failed to bring about an agreement, a formal hearing was held on March 30, 31 and

April 1, 1981 before Administrative Law Judge Allen R. Link. Both parties prepared and submitted briefs. Mr. Link's proposed decision issued on April 13, 1982 and was excepted to by the District.

PERB, thereafter reviewed the District's exceptions and issued its Decision No. 279 on December 31, 1982. Subsequently, the District submitted a request for reconsideration pursuant to PERB Regulation 32410(a).[1] The basis for the request was that the District felt the Board had erred by finding violations and that the remedy ordered was inappropriate because the parties had reached a collective bargaining agreement terminating the period for which the District was required to make employees whole under the Board's order. The Board denied the request for reconsideration of the merits of its findings, but granted the request for revising its order and issued Decision No. 279a on May 16, 1983, to add that the make whole period could terminate if the parties reach agreement or impasse "as to this issue." No petition for judicial review of PERB Decision 279a was filed, thus the decision became final on June 16, 1983.[2]

To determine if the District had complied with the Board's Order, a hearing was conducted on January 22, 1985.

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[1]PERB's regulations may be found at California Administrative Code, title 8, part III, section 31001, et seq.

[2]See Government Code 3542(b).

On February 1, 1985, supplemental evidence was presented by the District. This evidence was admitted into the record on February 22, 1985, with no objection by the Association.

Post-hearing briefs were filed by both parties on March 12, 1985. Reply briefs were filed on March 22, 1985, and the matter was submitted.

FACTS

The District informed Regional Director Frances A. Kreiling, through correspondence in 1983 and 1984, that it had complied with all affirmative obligations of the order except Paragraph B.3 which reads as follows:

> Rescind the policy which raised the maximum number of students permitted to register during the registration period in the Introduction to Accounting and Principles of Accounting A & B courses. The maximum shall be returned to the level maintained prior to spring 1979.
>
> Pay to all District instructors of Introduction to Accounting and Principles of Accounting A & B courses overload pay for all students registered in excess of the maximum class size prior to spring semester 1979, from the spring semester 1979 to the present or until the parties reach a negotiated agreement or impasse as to this issue, whichever is sooner. Such payment shall include 7 percent per annum interest. (Emphasis added.)

The parties stipulated that collective bargaining agreements between the Association and the District in PERB's files were accurate and complete. PERB files contain the collective bargaining agreement dated June 10, 1981, with an

effective date of June 11, 1981 through June 30, 1983; an amended agreement dated October 27, 1982 with effective dates of October 28, 1982 through June 30, 1983; and their latest agreement dated June 13, 1984 with effective dates of July 1, 1983 through June 30, 1986.

Each of these agreements contains an identical Article 8 entitled Class Size which limits class size maximums to "those in effect as of February 1, 1981, as recorded in the master course data file." The maximums may be modified by the parties in accordance with other provisions of the Article, but modification under those provisions is not an issue in this case.[3] Testimony revealed that there were no side letters or memoranda relating to the class size article.

The contract maximum class sizes as recorded in the master course data file on February 1, 1981, were 40 for Introduction to Accounting and 45 for Principles of Accounting A and B, an increase of five students per class over the maximums in effect before the spring semester of 1979 when the District made the first of the unilateral changes in class size maximums of which it was found guilty by the Board in PERB Decision No. 279. At

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[3]Article 8.A:

> A. Unless modified in accordance with the following provisions, class size limits for the terms of this agreement shall be those in effect as of February 1, 1981, as recorded in the master course data file.

that time in 1979 the maximum for Introduction to Accounting was 35 students and 40 for Accounting 1A and 1B. The following semester, fall 1979, the District increased unilaterally the maximum size of each of those classes by an additional 5 students. The maximum became 45 and 50, respectively, but they were then cut back to 40 and 45, remaining 5 students above the original, mutually accepted maximums.

Gilbert Acosta, association consultant, testified that no class size grievances have been filed since the contract signed by the parties on June 10, 1981 became effective. No other unfair practice charges alleging violations of EERA section 3543.5(a) or (c) have been filed against the District for refusing or failing to negotiate regarding the subject of class size. (Gilbert Acosta's testimony, Hearing Transcript p. 78.)

Don Jenkins, Vice President of Academic Affairs and Assistant Superintendent for the District, testified without contradiction that the practice since well before spring semester 1979 has been that students enrolled in a class above the class size maximum accepted by the District are admitted only with permission of the class instructor. Therefore, students enrolled above the class size maximums acknowledged by the District are, in effect, admitted by the instructors and not by the Registrar's office or management of the District. Ms. Pacheco generally confirmed this testimony, stating that, in her nearly ten years with the District, instructors have had

the option to over enroll students if they choose. She further stated that the District did not discourage over enrollment. Her general impression was that the District was very casual in its treatment of class size requirements, (HT pp. 62-65).[4]

Charging Party witnesses Pacheco and Acosta both recalled that Bill Hamilton, the District's Chief negotiator, during negotiation of the 1981 agreement, stated that there were two processes at work — one involved collective bargaining and the other the unfair practice litigation. (HT pp. 59-61;73-76.) From that statement Pacheco and Acosta inferred District assent that Article 8, class size, of the 1981 agreement, would have no effect on any remedy later ordered in PERB Decision No. 229.

ISSUES

1. Is Article 8A of the parties' June 10, 1981 agreement fixing class size maximums at the February 1, 1981 master course data file levels, a negotiated agreement terminating the District's duty under Paragraph B.3 of the order in PERB Decision No. 279a to return class size maximums to the

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[4]This practice has been contractual since September 1, 1981, the effective date of Article 8 in the agreement the parties signed June 10, 1981:

> Established class limits may be exceeded for a given section (5) upon recommendation of the department chairperson with consent of the instructor involved. (Article 8: class size, D.)

pre-1979 spring semester levels and pay overload pay to affected instructors after September 1, 1981?[5]

2. During the Paragraph B.3 liability period, must the District pay instructors overload pay for all excess students registered, including those admitted with instructor consent, or only for those excess students admitted as a result of the District's unilateral changes in class size maximums?

DISCUSSION

> The Board shall have 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, including but not limited to the reinstatement of employees with or. without back pay, as will effectuate the policies of this chapter.[6]

Pittsburg Unified School District PERB Decision No. 318a (4/2/84), provides insight into the Board's interpretation of its own remedial powers. In Pittsburg, the Board reconsidered its make-whole order and determined that a contract reached by the parties subsequent to the filing of unfair practice charges which alleged unilateral changes by the employer, would terminate the remedial liability period. The rationale for this decision can be found at p. 5,

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[5]Though the agreement was signed June 10, 1981 and became effective generally on June 11, the class size article, Article 8, contains a different effective date; September 1, 1981.

[6]See Government Code Sec. 3541.5(c).

> Such an agreement would terminate both the make-whole portion of the remedy and, inasmuch as the parties have mutually agreed to alter the status quo, that portion of the remedy ordering restoration of the status quo ante.

In footnote 3 found on page 5 of the Pittsburg decision (supra), the Board specifically addresses the arguments raised by the Association in its brief in the instant case.

> We disagree with the Association's argument that under Rio Hondo, back pay should terminate only when a subsequently negotiated agreement specifically addresses the conduct complained of in the unfair practice charge itself. In order to terminate liability for back pay, a subsequently negotiated agreement need only address the basic subject matter of the unilateral change, and need not constitute a "waiver" by the Association of its claim that the District acted unlawfully. (Emphasis added.)

In this case, the "basic subject matter" of class size clearly was addressed in the parties' collective bargaining agreement effective June 11, 1981 and the two successor agreements contain identical language.

Hence, even though the unfair practice charge was not resolved specifically by the agreement effective June 11, 1981, the status quo was altered and back pay terminated as of September 1, 1981, because the agreement addressed class size, "the basic subject: matter of the unilateral change." Had the Association reserved the right in the June 11, 1981 agreement to insist on restoration of the status quo ante or extra

teacher compensation for classes exceeding the pre-spring 1979 size limits in the event of a favorable PERB ruling on Case No. LA-CE-1157 (PERB Decision No. 279 and 279a), this case might be distinguishable from Pittsburg, however, that was not done.

The Association's argument that the parties have yet to reach agreement on the subject of class size is unconvincing particularly in light of the clear language of Pittsburg, supra. The parties have lived under the terms of collective bargaining agreements for nearly four years which contain an article specifically dealing with class size. Therefore, the contract that the Association and the District signed effective June 10, 1981 establishes the effective cut-off date for liability as to any back pay claims and terminates the District's obligation to restore the status quo ante.

As to the issue of the Board's intent in the order that the District pay Principles of Accounting A and B and Introduction to Accounting instructors for all students registered in excess of the 1979 maximum class size, the Association argues that the District waived its right to challenge the Board's use of the term "all" by not raising it in its motion for reconsideration.

In Brawley Union High School District, PERB Decision No. 266a, (4/7/83), the Board held that an employer respondent who had not raised a particular defense in its request for

reconsideration was precluded from raising the defense at a compliance hearing.

> The general and well-established rule is that a right once waived is gone forever (Jones v. Maria (1920) 48 Cal. App. 171 [191 p. 943]) and may not be re-asserted, Hein Estate (1939) 32 Cal App. 2d 438 [90 p. 2d 100]; Faye v. Feldman (1954) 128 Cal. App. 2d 319 [275 p 2d 121]. Consistent with this rule, we found that the district waived its right to the finding of violation. (See p. 6 Brawley Union High School District, supra.)

As did the employee organization in Brawley, the Association here argues that the District had ample opportunity to contest the finding of the Board that instructors should be paid for "all" excess students by raising the defense of voluntary admission of some of the students in its original request for reconsideration or before.

The word "all," however, is not the interpretational key to the Order in Decision No. 279a. The real issue is what the Board meant by the phrase, "maximum class size prior to spring semester 1979," in Paragraph B.3. Did the Board mean the maximum class sizes stated in the Master Course Data File effective immediately before the 1979 spring semester or did the Board intend that phrase to include reference to those students admitted with instructor consent under the parties' practice?

In its exceptions to the ALJ's proposed decision addressed by the Board in PERB Decision No. 279, the District argued that

master course data sheets reflect "official" policy and that actual practice at variance with the data sheets should be ignored. The Board rejected that superficial approach however, agreeing with the Association that the actual should prevail over the theoretical and finding unilateral increases in class size by the District even though the increases were not reflected in the master course data sheets. (Decision No. 279, pp. 21-22.) Hence, the Board decided that "maximum class size" is not necessarily determined by reference to master course data sheets alone.

For many years it has been the practice of the parties to allow excess students to register in classes with the consent of the instructors and the instructors have not received overload pay for those consensually admitted excess students. Having considered actual practice in defining "maximum class size" in the basic decision in this case, there is no reason to assume "maximum class size" as used by the Board in Decision No. 279a was not intended to take into account practices of the parties affecting actual, consensual, class size maximums during the overload pay liability period. Applying this definition, "maximum class size" includes the class maximum stated in the master course data file and all other students registered with instructor consent. Hence, the District's overload pay liability during the period specified in Paragraph B.3 would be limited to payment for those students

who were registered in excess of the maximum class sizes stated in the Master Course Data File effective immediately before the 1979 spring semester and without instructor consent.

Requiring the District to compensate instructors for excess students they had admitted to their classes voluntarily could be viewed as a punitive rather than remedial measure since instructors had never before been paid extra for excess students they voluntarily admitted. As has been recognized repeatedly by courts in interpreting remedial power provisions in the Agricultural Labor Relations Act and National Labor Relations Act similar to the remedial grant to PERB in section 3541.5(c), "[A] Board's discretion in ordering affirmative action to remedy unfair labor practices is not unbounded. It must be exercised reasonably by the Board whose power to command affirmative action is remedial, not punitive. . . ." (Sunnyside Nurseries, Inc. v. Agricultural Labor Relations Bd. (1979) 93 Cal.App. 3d 922, 940, quoting in part from Edison Co. v. Labor Board (1938) 305 U.S. 197, 236 83 L.Ed. 126, 143, 59 S.Ct. 206.

Presumably in crafting its order, the Board was mindful of the necessity of limiting its remedy to that necessary to effectuate the purposes of the Act, as indicated in section 3541.5(c). See Ellis Landing & Dock Co. v. Richmond (1932) 70 Cal.App. 720. In fact, the Board granted the District's

request for reconsideration to the extent of modifying its order to include a negotiated agreement of the parties as a means of terminating the overload pay liability pay period, expressly to keep the remedy within the intentions of section 3541.5(c).

In Decision 279a (p. 6), the Board defines the intent of the original Decision 279 remedial order:

> The intent of the Board's order was to remedy the District's refusal to negotiate prior to taking unilateral action with regard to the wages, hours, and working conditions of bargaining unit members. (P. 6.)

The purposes of the Act are met and the remedy of the District's violations in this case is complete when instructors have been compensated for instructing students they were required unlawfully to instruct.

Since this is a matter of interpreting the existing language of the Board's Order in Decision No. 279a and requires neither reference to facts outside the record nor modification of the Order, the Association's waiver argument fails.

CONCLUSION

Article 8.A of the parties' June 10, 1981 agreement is a negotiated agreement, within contemplation of Paragraph 3.B of the Board's Order in PERB Decision No. 279a. It terminates the District's overload pay liability period and alters the status quo. The term "maximum class size" as used by the Board in

Paragraph B.3 includes excess students registered with the consent of instructors under the long standing practice between the parties. Compliance by the District with Paragraph B.3 will be complete when instructors who taught Introduction to Accounting and Principles of Accounting A and B courses from the spring semester of 1979 to the fall semester of 1981 are appropriately compensated for each student who was registered in one of those classes in excess of the maximum class size specified for the course in the Master Course Data File immediately before the 1979 spring semester without consent of the course instructor. Such payment shall include interest at the rate of seven percent.

PROPOSED ORDER

Pursuant to PERB Decision No. 279(a) (Unfair Practice Charge Case No. LA-CE-1157), Compliance Case No. LA-C-64, Rio Hondo Faculty Association, CTA/NEA v. Rio Hondo Community College District, the foregoing findings of fact, conclusions of law and the entire record, it is the Proposed Order that the Rio Hondo Community College District shall:

1. Pay overload pay to all District instructors who taught Introduction to Accounting or Principles of Accounting A and B from spring semester 1979 to fall semester 1981 for every student registered during that period in excess of the maximum class size stated in the Master Course Data File immediately

before the 1979 spring semester, without consent of the course instructor. Such payment shall include interest at the rate of 7 percent.

2. Upon issuance of a final decision, make written notification of the actions taken to comply with this Order to the Los Angeles Regional Director of the Public Employment Relations Board in accordance with his/her instructions.

Pursuant to California Administrative Code, title 8, part III, section 32305, this Proposed Decision and Order shall become final on May 6, 1985 unless a party files a timely statement of exceptions. In accordance with the rules, the statement of exceptions should identify by page citation or exhibit number the portions of the record relied upon for such exceptions. See California Administrative Code, title 8, part III, section 32300. Such statement of exceptions and supporting brief must be actually received by the Public Employment Relations Board itself at the headquarters office in Sacramento before the close of business (5:00 p.m.) on May 6, 1985, or sent by telegraph or certified United States mail, postmarked not later than the last day for filing 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 concurrently 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, section 32300 and 32305.

DATED: April 15, 1985

Janet Caraway
Director of Representation

By **Roger Smith**
Hearing Officer