

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-42
)
 v.) PERB Decision No. 397
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) August 16, 1984
)
 Respondent.)
 _____)

Appearances! Howard O. Watts, in propria persona.

Before Hesse, Chairperson; Jaeger and Tovar, Members.

DECISION

JAEGER, Member: This case is before the Public Employment Relations Board on appeal of a partial dismissal without leave to amend of a public notice complaint filed by Howard O. Watts alleging that the Los Angeles Unified School District (District) violated section 3547¹ of the Educational Employment Relations Act (EERA or Act) in connection with the presentation of initial proposals in June, 1982.

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

Section 3547 provides:

- (a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public

Specifically, Watts alleges that the District violated the Act by:

1. Failing to place initial proposals on the agenda in breach of the District's public notice regulations.²

school employer and thereafter shall be public records.

(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

(d) New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.

²The regional representative found that that portion of the complaint alleging that the District failed to place a proposal on its agenda stated a prima facie violation of the Act. That portion of the charge has proceeded to a hearing and is not before us in this case.

2. Presenting initial bargaining proposals at a closed meeting.

3. Failing to give a verbal description of initial bargaining proposals at a public meeting.

4. Failing to follow the same procedures for presenting the proposals of classified employee organizations as are followed with regard to certificated employee organizations.

For the reasons set forth below, we affirm in part and reverse in part the regional representative's dismissal.

PROCEDURAL HISTORY AND FACTS

On July 13, 1982, Watts filed the instant public notice complaint.

On August 31, 1982, a notice of deficiency was issued concerning several allegations in the complaint. In response to this notice, on September 30, 1982, Watts amended his complaint.

On October 6, 1982, a notice of partial dismissal with leave to amend was issued.

On October 26, 1982, Watts filed a second amended complaint reiterating the allegations which had been dismissed with leave to amend.

On November 8, 1982, the regional representative issued a notice of partial dismissal without leave to amend on the ground that the amended complaint did not state a prima facie violation of the public notice provisions of EERA.

The amended complaint of October 26, 1982 alleges that on June 14, 1982 Mr. William Sharp, Assistant Superintendent for Staff Relations, who had been in attendance at a meeting of the "committee of the whole,"³ emerged from the meeting and simply deposited an unspecified number of copies of the District's bargaining proposals on a table among several copies of the board's agenda. This presumably was the District's method of sunshining its proposals. There was no public attendance at this committee of the whole meeting, which was the only meeting convened prior to the presentation of the District's proposals.

In addition, the complaint alleges that the District's method of distributing the proposals of classified employee organizations differs from its method of distributing proposals of certificated employee organizations.

DISCUSSION

Committee of the Whole Meeting of June 14, 1982

Watts alleges that the District presented its initial proposals at a closed "committee of the whole" meeting rather than at a public meeting as required by subsection 3547(a).

The regional representative found that, because the committee of the whole meeting represented a quorum of the

³A "committee of the whole" is composed of the members of the Board of Education sitting as an investigative organ without authority to act on the matter being investigated.

school board, it was a "public meeting" within the meaning of the statute, and that presentation of the proposals at the committee meeting did not violate subsection 3547(a).

There is no question that subsection 3547(a) mandates the presentation of all initial bargaining proposals at a "public meeting." Since the complaint alleges that the committee of the whole meeting was closed to the public, we find that the complaint states a prima facie violation of the Act. The mere fact that the attendance at the committee of the whole meeting may have constituted a quorum of the governing board is irrelevant if the meeting was, in fact, closed to the public.

Verbal Description of Proposals

Watts challenges the District's method of presentation on the ground that it failed to make "a verbal description of the contents of proposals" at a public meeting. The regional representative found that the statutory requirement that the District "present" the proposals did not require the District to verbally describe the contents of the proposals and that the intent of the public notice statute would be satisfied if the proposals were distributed in written form.

We agree with the regional representative that the Act does not require the employer to give a verbal description of proposals. Subsection 3547(a) cannot be construed as placing such an onerous and impractical burden on the District. Accordingly, this allegation is dismissed as failing to state a prima facie violation of the Act.

Discrepancy Between Presentation of Classified and Certificated Employee Organization Proposals

Watts alleges that the District's method of sunshining the proposals of classified employee organizations differs from its method of sunshining the proposals of certificated employee organizations. Specifically, Watts alleges that, unlike its practice with respect to classified proposals, the District "present[s] thousands of copies of [certificated] proposals to the Staff Relations Office and the Public information Office and then their proposals are distributed by the school mails . . ." [sic].

We find that the mere allegation that the method of sunshining classified employee organization proposals differs from that used for sunshining certificated employee proposals does not state a prima facie case in the absence of some indication that the method of presenting the classified proposals is, itself, legally deficient. There is no requirement in the statute that bargaining proposals of employee organizations representing employees in different bargaining units be presented in an identical manner so long as the manner of presentation undertaken in each case is consistent with the requirements of the Act.

ORDER

Upon the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that:

The portion of the complaint alleging that the District presented a proposal at a closed meeting is found to state a prima facie violation of section 3547 of the Educational Employment Relations Act and is REMANDED to the general counsel for further proceedings consistent with this Decision. All other allegations in Case No. LA-PN-42, with the exception of the agenda issue, are DISMISSED without leave to amend. The agenda issue was not before the Board and has proceeded to a hearing on the merits.

Chairperson Hesse and Member Tovar joined in this Decision.