

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



SAN LEANDRO SCHOOLS RETIREE ACTION)
ASSOCIATION,)
)
Charging Party,) Case No. SF-CE-943
)
v.) PERB Decision No. 450
)
SAN LEANDRO UNIFIED SCHOOL DISTRICT,) December 6, 1984
)
Respondent.)
_____)

Appearance: Robert J. Bezemek, Attorney for San Leandro Schools Retiree Action Association.

Before Hesse, Chairperson; Jaeger and Morgenstern, Members.

DECISION

MORGENSTERN, Member: The San Leandro Schools Retiree Action Association (Retiree Association) seeks review of the Public Employment Relations Board's regional attorney's dismissal of its unfair practice charge levied against the San Leandro Unified School District (District).

FACTUAL ALLEGATIONS

The unfair practice charge filed by the Retiree Association claimed that the District violated section 3543.5(c) of the Educational Employment Relations Act (EERA)¹ when it negotiated with the exclusive representatives of the

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

certificated, classified, supervisory and managerial employees over contract provisions dealing with the health benefits of retired employees.

Paragraph two of the charge alleged:

Charging party contends that the District was not entitled by law to attempt to negotiate or negotiate said collective bargaining proposals dealing with the health benefits of retired employees because such retired employees are not members of the established collective bargaining units. Charging party further contends that the District insisted in negotiations with the above-mentioned organizations that language be included in the collective bargaining agreements which caused retirees to have to assume certain costs of health benefit coverage, which they previously were not required to pay.

The charge indicates that the Retiree Association

exists for the purposes of representing retired employees to the San Leandro Unified School District in their effort to reverse the . . . decision to change health benefit costs

The charge also asserts as follows:

The Association is an unincorporated Association, and it has never been recognized by the District as an employee organization within the meaning of the Act.

Charging party herein represents only retired employees who retired prior to the effective date of the recently approved collective bargaining agreements which have the changes in it which are the issue in this Unfair Practice Charge. Charging party does not represent any employees who have retired or will retire under the new collective bargaining agreement. Charging party contends that the District attempted to cause exclusive bargaining representatives to negotiate over an illegal subject of bargaining outside the scope of

representation solely because the exclusive bargaining representatives did not represent employees who had already retired under the previous collective bargaining agreements. It was a violation of the employers' responsibility to bargain in good faith to seek to compel such negotiations, and then to negotiate and requiring inclusion in the collective bargaining agreements of such causes at issue here.

Based on the allegations contained in the charge, on September 28, 1984, the San Francisco regional attorney refused to issue a complaint and dismissed the Retiree Association's charge. His dismissal was based on the fact that: (1) the Retiree Association is not an employee organization within the definition of EERA section 3540.1(d); (2) the Retiree Association does not represent employees; and (3) charging party has no standing to object to negotiations between the District and the exclusive representatives of established bargaining units.

DISCUSSION

Section 3541.5(a) provides that an unfair practice charge may be filed by "any employee, employee organization or employer." As determined by the regional attorney, a single retiree does not fit the definition of "employee," which is defined by EERA to mean "any person employed by any public school employer" (3540.1(j)). Similarly, the Retiree Association is not an "employee organization" as defined by EERA to be "any organization which includes employees of a public school employer and which has as one of its primary

purposes representing such employees in their relations with that public school employer" (3540.1(d)). The Retiree Association, therefore, lacks standing to file an unfair practice charge.

ORDER

Based on the foregoing, the regional attorney's dismissal of the instant charge is AFFIRMED.

Chairperson Hesse and Member Jaeger joined in this Decision.