

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant.) Case No. LA-PN-77
)
 v.) PERB Decision No. 506
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT.) May 7, 1985
)
 Respondent.)
 _____)

Appearances: Howard O. Watts, on his own behalf.

Before Jaeger. Morgenstern and Burt. Members.

DECISION

BURT. Member: Howard O. Watts appeals the Notice of Finding Voluntary Compliance and the dismissal of his public notice complaint alleging that the Los Angeles Unified School District (District) violated section 3547(a), (b) and (c) of the Educational Employment Relations Act (EERA)¹ by failing to present the District's school calendar proposal, by denying the public an opportunity to speak to the proposal on March 5, 12 or 19, 1984 and by taking action on the proposal prior to public comment.

¹The EERA is codified at Government Code section 3540, et seq. Unless otherwise indicated, all statutory references are to the Government Code.

FACTS

The regional representative found that Watts had stated a prima facie case and, after discussing the charge with District personnel, advised Watts that the District was willing to settle. On June 22, 1984, the District served Watts with a copy of the District's letter sent to the Public Employment Relations Board (PERB or Board) outlining the proposed settlement. The letter, while denying that the District had done anything improper, stated that the District would properly comply with the public notice provisions of the EERA the next time a calendar proposal was submitted, and would post a notice to that effect.

Despite objections to the settlement from Watts, on June 27 and 29, 1984 the regional representative advised Watts through copies of his letters to the District that he had found a prima facie case, but that the District had agreed to comply voluntarily with the public notice requirements and that Watts' complaint would be held in abeyance until the District could show it had so complied. On September 27, 1984, the regional representative sent Watts a Notice of Finding Voluntary Compliance advising him that, by expressing its intent to properly notice the school calendar issue the next time proposals were exchanged and by posting a notice of said intention, the District had commenced voluntary compliance. He

indicated that he would retain jurisdiction until full compliance was achieved.

On October 1, 1984, Watts appealed the Notice because he did not feel voluntary compliance was an appropriate means by which to resolve the case; he wanted a PERB decision that would resolve this case and provide precedent for future cases. He also alleged his due process rights were violated because there was no informal conference or a hearing. He also indicated that, while allowing for multiple presentations on initial proposals was not a PERB issue, it was the District's past practice to permit such multiple opportunities to comment..

On February 7. 1985, the District sent PERB a memorandum showing the presentation of the 1985-86, 1986-87 and 1987-88 calendars as initial proposals on November 19. 1984. and also the agenda for the January 28. 1985 board meeting where the proposal was adopted. On February 13. 1985. the acting regional director dismissed the case without leave to amend, based on the District's February 7 letter and Watts' acknowledgment of compliance at a February 8. 1985 meeting.

On March 5, 1985, Watts appealed the dismissal. Although he indicates that the District had voluntarily complied with the public notice requirements by allowing for public comment during at least six meetings, which Watts recognized as being "way beyond the required amount," he nevertheless maintains his

objection to voluntary compliance as a means of resolving this case.

DISCUSSION

As Watts' own exhibits show. PERB Regulation 32920(b)(4) directs the Board agent processing an EERA complaint to:

[e]xplore the possibility of and facilitate the voluntary compliance and settlement of the case through informal conferences or other means.

Regulation 32920(g) states:

If the Board agent receives proof that the respondent has voluntarily complied with the provisions of Government Code sections 3547 . . . , a Board agent may either approve the complainant's withdrawal of the complaint or dismiss the complaint. [Emphasis added.]

Regulation 32920(b)(4) shows clear approval of the use of voluntary compliance to dispose of an EERA complaint. We interpret Regulation 32920(g) literally; the use of the disjunctive "or" means that if complainant fails to withdraw the complaint once the Board agent has found the respondent has voluntarily complied, the agent may dismiss the complaint.

Watts has not cited, and we have not found, any regulation giving a charging party the right to demand a formal decision. Moreover, no novel legal issue was presented in this case that requires more precedent than has already been established. In addition. Watts himself has agreed that the District had voluntarily complied with the public notice provisions to an extent greater than that required by law.

ORDER

For the reason stated above, the Board DENIES
Howard O. Watts' appeal of the Notice of Finding Voluntary
Compliance and AFFIRMS the dismissal of Case No. LA-PN-77.

Members Jaeger and Morgenstern joined in this Decision.