

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



DAVID W. IRVIN,)
)
 Charging Party,) Case No. LA-CO-29-H
)
 v.) PERB Decision No. 862-H
)
 INTERNATIONAL UNION OF OPERATING) December 20, 1990
 ENGINEERS, LOCAL 501, AFL-CIO,)
)
 Respondent.)
 _____)

Appearance: Daniel Dillon for David W. Irvin.

Before Hesse, Chairperson; Shank and Camilli, Members.

DECISION AND ORDER

CAMILLI, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by David W. Irvin (Irvin) of a Board agent's dismissal of his charge that the International Union of Operating Engineers, Local 501, AFL-CIO violated section 3571.1(b) and (e) of the Higher Education Employer-Employee Relations Act (HEERA),¹ when it refused to

¹**HEERA** is codified at Government Code section 3560 et seq. Unless otherwise indicated, all statutory references are to the Government Code. Section 3571.1 states, in pertinent part:

It shall be unlawful for an employee organization to:

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(e) Fail to represent fairly and impartially all the employees in the unit for which it is the exclusive representative.

proceed to arbitration or allow a third party to proceed to arbitration on Irvin's grievance.

On December 12, 1990, the PERB General Counsel requested that this case be remanded for further investigation. The Board has adopted a procedure whereby the General Counsel conducts a routine review of cases dismissed by Board agents. As the Board noted in response to a similar request in California State Employees' Association (Morrow) (1986) PERB Decision No. 568-S, the purpose of the review procedure is to minimize, and hopefully reduce, appellate litigation prompted by inadequacies in the processing of unfair practice charges. The request for remand reflects the General Counsel's reasoned conclusion that further investigation would serve that purpose. We conclude that the request for remand should be granted.

Therefore, upon review of the entire record, the Board ORDERS that Case No. LA-CO-29-H be REMANDED to the General Counsel for further investigatory proceedings.

Chairperson Hesse and Member Shank joined in this Decision.