

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JOHN B. EARLY and ROBERT L. SMITH,)
)
 Charging Parties,) Case No. LA-CO-551
)
 v.) PERB Decision No. 892
)
 AMERICAN FEDERATION OF TEACHERS) July 3, 1991
 GUILD ("A.F.T.")/)
)
 Respondent.)
 _____)

Appearance: John B. Early, on his own behalf, and on behalf of Robert L. Smith.

Before Hesse, Chairperson; Camilli and Carlyle, Members.

DECISION AND ORDER

CAMILLI, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by John B. Early (Early) on behalf of charging parties, of a Board agent's dismissal of their charge that the American Federation of Teachers Guild (AFT) violated the Educational Employment Relations Act (EERA) sections 3543.6(b), 3544.9 and 3571.1(c).¹

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

It is noted that although the charge alleged violations of the Higher Education Employer-Employee Relations Act, Government Code section 3571.1(b), (c) and (e), the Board agent correctly analyzed the charge under the EERA sections noted above, as the charging parties are employed by the San Diego Community College District.

It is unclear whether the appeal is filed on behalf of both of the charging parties or solely by Early. As Early represents both charging parties in this matter, the appeal is considered to be on behalf of both charging parties.

PERB Regulation 32635² concerning review of dismissals states, in pertinent part:

The appeal shall:

- (1) State the specific issues of procedure, fact, law or rationale to which the appeal is taken;
- (2) Identify the page or part of the dismissal to which each appeal is taken;
- (3) State the grounds for each issue stated.

The substance of the appeal reads, in its entirety, as follows:

I would like to appeal the decision made by Marc S. Hurwitz in not filing a formal complaint against A.F.T.

This appeal does not comport with the above-cited requirements of PERB Regulation 32635, as it fails to state with any specificity the issues to which the appeal is taken, the specific portion(s) of the dismissal being appealed, or the grounds for the appeal. The Board has held that compliance with regulations governing appeals is required to afford the respondent and the Board an adequate opportunity to address the issues raised, and non-compliance will warrant dismissal of the appeal. (United Teachers - Los Angeles (Glickberg) (1990) PERB Decision No. 846, p. 2.)

For the reasons stated above, the Board rejects the appeal, and finds it unnecessary to determine whether the charge was

²PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

otherwise sufficient to state a prima facie case.³ The unfair practice charge in Case No. LA-CO-551 is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Chairperson Hesse and Member Carlyle joined in this Decision.

³While the appeal was timely filed with PERB on May 14, 1991, AFT was not served with the appeal until May 23, 1991. As the Board finds the appeal fails to meet the requirements of PERB Regulation 32635, it is unnecessary to determine the effect, if any, of the lack of concurrent service of the appeal.