**STATE OF CALIFORNIA**
**DECISION OF THE**
**PUBLIC EMPLOYMENT RELATIONS BOARD**

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| SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 535, | ) | |
| Charging Party, | ) | Case No. LA-CE-3323 |
| v. | ) | PERB Decision No. 1073 |
| VENTURA COMMUNITY COLLEGE DISTRICT, | ) | December 7, 1994 |
| Respondent. | ) | |

Appearances: Van Bourg, Weinberg, Roger & Rosenfeld by James G. Varga, Attorney, for Service Employees International Union, Local 535; Parham & Associates by Mark R. Bresee, Attorney, for Ventura Community College District.

Before Carlyle, Garcia, and Johnson, Members.

DECISION

GARCIA, Member: This case is on appeal by the Ventura Community College District (District) to a Public Employment Relations Board (PERB or Board) administrative law judge's (ALJ) proposed decision (attached), where it was found that the District violated section 3543.5(b) and (d) of the Educational Employment Relations Act (EERA).[1]

[1]EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. EERA section 3543.5 states, in pertinent part:

> It shall be unlawful for a public school employer to do any of the following:
>
> (b) Deny to employee organizations rights guaranteed to them by this chapter.
>
> (d) Dominate or interfere with the formation or administration of any employee

After reviewing the entire record, including the proposed decision, exceptions,[2] responses and briefs, the Board hereby affirms the ALJ's proposed decision in accordance with the following discussion.

## JURISDICTION

PERB has jurisdiction over this case for the following reasons: The District is a public school employer under EERA; the Service Employees International Union, Local 535 (SEIU) at all times relevant has been the exclusive representative of two units of the District's classified employees; the charge was timely filed and the present dispute is not subject to a contractual grievance agreement.

## BACKGROUND

SEIU, the union which represents certain District classified employees, filed an unfair practice charge alleging that the District had violated EERA section 3543.5 (a), (b), (c) and (d) by creating, dominating, supporting and bargaining with a rival employee organization, the Classified Senates (CS).

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> organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.

[2]The Board denied the District's request for oral argument which was filed with the District's exceptions.

## ALJ'S PROPOSED DECISION

As framed by the ALJ, the specific issues are:

1. Did the District contribute unlawful support to the CS and thereby violate EERA section 3543.5(d), and derivatively, (a) and (b)?

2. Did an agent of the District, on or about March 11, 1993, discuss with representatives of the CS "negotiable options" not previously presented to SEIU and thereby violate section 3543.5(c), and derivatively, (a) and (b)?

Setting forth applicable legal principles, the ALJ discussed Redwoods Community College District (1987) PERB Decision No. 650 (Redwoods), which describes limitations on the relationship school district employers may have with employee groups other than exclusive representatives. In Redwoods, PERB found that the District unlawfully interfered with, supported and dominated an employee organization, the Classified Employees Council (CEC.[3] We learned from Redwoods that an employer may consult with employees individually or in groups on various matters, but it is

[3]In Redwoods. the ALJ found that CEC was an employee organization for EERA purposes and that the district played an important role in establishing CEC by providing facilities and free time to participants and by absorbing costs. CEC participated in an extensive program review with the district and the California School Employees Association (CSEA), which resulted in recommendations with an impact on hiring and working conditions. Furthermore, CEC was allowed a place on Board of Trustees meeting agendas, whereas CSEA was not. The ALJ found that the pervasive involvement of the district in the formation, support and participation of CEC equalled domination. As a remedy, he ordered the disestablishment of CEC as a competing organization to the exclusive representative.

the reserved domain of the exclusive representative to deal with the employer on matters within the scope of representation.

The ALJ then addressed the District's argument that Assembly Bill 1725 (AB 1725),[4] enacted after Redwoods, renders the rules in that case "largely inapplicable." The ALJ reviewed key language in AB 1725[5] but concluded that:

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[4]Statutes 1988, chapter 973. AB 1725 is codified at sections 70901 and 70902 of the Education Code.

[5]For example, the ALJ discussed Education Code section 70901(b)(1)(E), which reads, in pertinent part:

> (b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors [of the community college] shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:
>
> (1) Establish minimum standards as required by law, including, but not limited to, the following:
>
> (E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards. [Emphasis added.]

> . . . I do not find anything in the 1988 enactment or subsequent regulations [6] of the Board of Governors that affects the principles set out in Redwoods. If anything, the regulations make it clear that shared governance is not to usurp the relationship between community college districts and exclusive representatives. The regulations also make it clear that shared governance is inapplicable to matters within the EERA scope of representation. Accordingly, I conclude that the 1988 enactment and subsequent regulations are irrelevant to the disposition of this matter. [Emphasis added.]

In addition to this ruling, the ALJ made the following other findings: (1) that SEIU was not estopped from charging alleged violations;[7] (2) that the District did not observe "strict neutrality" and provided unlawful support for the CS, both in the form of financial assistance and "open deference" to CS positions on negotiable topics; and (3) that the District had dealt with the CS on negotiable topics, "effectively [granting] the senates

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[6]Several provisions in AB 1725 authorize community college districts to enact regulations to implement shared governance, with the express limitation that such regulations be consistent with other laws. For example, a community college board of governors can adopt "necessary and proper" regulations to implement the functions specified above (Education Code section 70901(c)); community college districts shall establish rules and regulations not inconsistent with the regulations of the board of governors of the community college (id., sec. 70902); governing boards have the authority to adopt rules and regulations "not inconsistent" with the laws of this state (id., sec. 70902(c)).

The District's regulations implementing these statutes are codified at Title 5, California Code of Regulations, section 51023.5.

[7]Our review of the estoppel doctrine confirms that the ALJ correctly refused to employ the doctrine to bar SEIU's charge. Since the District's exceptions also fail to convince us to apply the estoppel doctrine here, we do not discuss it further in this decision.

a role as absent parties in the negotiations between the District and [SEIU]."[8]

The ALJ concluded that this conduct constituted a violation of EERA section 3543.5(b) and (d), but he found no evidence of a violation of 3543.5(a). As a remedy, the ALJ ordered the District to cease and desist from contributing financial or other support to the CS or from dealing with them on negotiable topics while there is an exclusive representative of classified employees. The District was also ordered to not give preference to one organization over another and to post a notice of the violations.[9]

DISTRICT'S EXCEPTIONS

The District excepts to the proposed decision on the grounds that: (1) the ALJ erroneously concluded that SEIU is not estopped from accusing the District of unlawful domination and support; (2) the ALJ erroneously concluded that AB 1725 has no effect on the Board's analysis of unlawful support charges; and (3) the ALJ erroneously concluded that the District unlawfully supported the CS.

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[8]The ALJ also found that there was no proof that the District had bypassed SEIU by its action at a March 11,. 1993 meeting (one of the allegations in the charge) and he dismissed that cause of action. Since we find that the record supports this finding by the ALJ, there is no need for further discussion of this secondary issue. The discussion section of this decision will focus solely on the unlawful support allegations.

[9]Since the ALJ found that the District had not dominated the CS, he declined to "disestablish" the CS as SEIU had requested.

## SEIU'S RESPONSE TO THE DISTRICT'S EXCEPTIONS

SEIU filed a response to the District's exceptions, in which it claims that: (1) the ALJ's findings of fact and conclusions of law are supported by overwhelming evidence in the record; (2) the passage of AB 1725 did not diminish SEIU's rights as the exclusive employee representative, as the ALJ correctly found; (3) SEIU is not estopped from asserting its representational rights against the conduct of the District, since the record contains "numerous letters" to the District as well as to the CS in which the Union complains of the Senates' involvement in matters within the purview of the collective bargaining relationship between the District and the Union; and (4) the ALJ appropriately applied Redwoods to the facts in this case.

## DISCUSSION

Review of the record supports the ALJ's important findings of fact[10] and conclusions of law and we affirm all findings in the proposed decision except one.

Since both parties directed our attention on appeal to the relevance of AB 1725, some clarification is appropriate. We find that AB 1725 is relevant and can be read in harmony with EERA.

As the ALJ noted, it is clear that in enacting AB 1725 the Legislature intended community college staff and students to have

[10]The file shows the District was not overly involved in formation, support or leadership of the CS, although lax policies did permit CS benefits SEIU did not enjoy; for example, CS members were allowed to participate on District time; de minimis clerical and service support was provided to CS, and CS had a place on board meeting agendas. However, it was clear from the file that CS was to avoid any role in negotiable activities.

a recognized voice in college governance, at least with respect to matters outside the scope of representation. However, EERA and PERB's Redwoods decision require District management to take precautions to avoid infringing upon the domain of the exclusive representative. It is established that employers, including community college districts, proceed at their own risk when involving or allowing employee organizations other than the exclusive representative to participate in matters within the scope of representation.[11]

Here, the District crossed the line by providing financial assistance to CS and by openly deferring to CS positions on negotiable topics. However, the placement of CS on the District board's agenda was consistent with the statutory intent to give staff a meaningful voice in matters outside the scope of representation.

In conclusion, the ALJ correctly found that the District violated section 3543.5(b) and (d) of the EERA.

ORDER

Upon the foregoing findings of fact and conclusions of law and the entire record in this case, the Board finds that the Ventura Community College District (District) violated section 3543.5(d) of the Educational Employment Relations Act (EERA) by unlawfully supporting a rival employee organization, the Classified Senates (CS) and dealing with the CS on negotiable

[11]See, e.g., Oak Grove School District (1986) PERB Decision No. 582, at page 18.

topics. Because this action had the additional effect of interfering with the right of the Service Employees International Union, Local 535 to represent its members, the District's unlawful support of the CS was a violation of EERA section 3543.5(b) and (d).

The allegation that the District's conduct violated section 3543.5(a) and all other allegations are hereby DISMISSED.

Pursuant to EERA section 3541.5 (c), it is hereby ORDERED that the District, its governing board and its representatives shall:

A. CEASE AND DESIST FROM:

1. Contributing financial or other support to the CS.

2. Dealing with the CS on negotiable topics while there is an exclusive representative of classified employees or show a preference for the CS or interfere with the right of the exclusive representative to represent its members and others in the bargaining units.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF EERA:

1. Within thirty-five (35) days following the date this Decision is no longer subject to reconsideration, post at all work locations where notices to employees are customarily placed, copies of the Notice attached as an Appendix hereto, signed by an authorized agent of the employer. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to insure that this

Notice is not reduced in size, defaced, altered or covered by any material.

2. Written notification of the actions taken to comply with this Order shall be made to the San Francisco Regional Director of the Public Employment Relations Board in accordance with the director's instructions.

Members Carlyle and Johnson joined in this Decision.

APPENDIX

**NOTICE TO EMPLOYEES**
**POSTED BY ORDER OF THE**
**PUBLIC EMPLOYMENT RELATIONS BOARD**
**An agency of the State of California**

After a hearing in Unfair Practice Case No. LA-CE-3323, Service Employees International Union, Local 535 v. Ventura Community College District, in which all parties had the right to participate, it has been found that the Ventura Community College District (District) violated section 3543.5(b) and (d) of the Educational Employment Relations Act (EERA). The District violated EERA by providing unlawful support to the Classified Senates (CS). This unlawful activity has occurred both in the form of financial assistance to the CS and by dealing with the CS on negotiable subjects and openly deferring to CS positions. By this conduct the District showed a preference for the CS over the Service Employees International Union, Local 535, the exclusive representative of the District's classified employees.

As a result of this conduct, we have been ordered to post this notice and we will:

A. CEASE AND DESIST FROM:

1. Contributing financial or other support to the CS.

2. Dealing with the CS on negotiable topics while there is an exclusive representative of classified employees or show a preference for the CS and interfere with the right of the exclusive representative to represent its members and others in the bargaining units.

Dated: _____ VENTURA COMMUNITY COLLEGE DISTRICT

By: _____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED BY ANY MATERIAL.

**STATE OF CALIFORNIA**
**PUBLIC EMPLOYMENT RELATIONS BOARD**

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| SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 535,<br><br>Charging Party,<br><br>v.<br><br>VENTURA COUNTY COMMUNITY COLLEGE DISTRICT,<br><br>Respondent. | ) | Unfair Practice Case No. LA-CE-3323<br><br>PROPOSED DECISION **(7/1/94)** |

Appearances: Van Bourg, Weinberg, Roger & Rosenfeld by James G. Varga, Esq., for the Service Employees International Union, Local 535; Parham & Associates by Jackson Parham, Esq., for the Ventura County Community College District.

Before Ronald E. Blubaugh, Administrative Law Judge.

## PROCEDURAL HISTORY

A union representing classified employees here contends that a community college district has created rival employee organizations which it then favored and bargained with. The district replies that it did not create the organizations, has not bargained with them and that their existence is mandated by law.

The Service Employees International Union, Local 535 (SEIU or Union), commenced this action on July 2, 1993, by filing an unfair practice charge against the Ventura County Community College District (District). The Office of the General Counsel of the Public Employment Relations Board (PERB or Board) followed on September 22, 1993, with a complaint against the District.

The complaint alleges that the District has contributed and continues to contribute financial and other support to certain

employee organizations known as the classified senates. The complaint alleges further that on or about March 11, 1993, the chief negotiator for the District discussed negotiable topics with representatives of the classified senates. These actions are alleged to be in violation of Educational Employment Relations Act (EERA) section 3.543.5 (a), (b), (c) and (d.[1]

The District answered the complaint on October 5, 1993, denying that it had unlawfully supported or negotiated with the classified senates. As affirmative defenses, the District also asserted that all actions it took regarding the senates were in

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[1]Unless otherwise indicated, all statutory references are to the Government Code. The EERA is codified at Government Code section 3540 et seq. In relevant part, section 3543.5 provides as follows:

> It shall be unlawful for a public school employer to:
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> (a) 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. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.
>
> (b) Deny to employee organizations rights guaranteed to them by this chapter.
>
> (c) Refuse or fail to meet and negotiate in good faith with an exclusive representative.
>
> (d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.

accord with State of California regulations pertaining to classified employees at community colleges.

A hearing was conducted in Ventura on February 23 through 25, 1994. With the filing of briefs, the matter was submitted for decision on June 6, 1994.

## FINDINGS OF FACT

The District is a public school employer under the EERA. It operates three community colleges, Ventura College, Moorpark College and Oxnard College. SEIU at all times relevant has been the exclusive representative of two units of the District's classified employees. These are a unit of office, technical and business services employees and a unit of operations and support employees. Members of the two units work at all three college campuses and at the District office.

The Union was certified as exclusive representative of the two units on September 8, 1981. At the time of the hearing there was no agreement in place between the parties. The previous agreement expired on June 30, 1993, and the parties had not reached an understanding on a successor. They were in negotiations but were not at impasse.

Throughout some of the period since the Union's certification, there have been at the District other organizations of classified employees. In the earlier years of certification, these organizations had such purposes as the recognition of employee birthdays and the operation of small fund

raising activities. These organizations gradually gave way to the classified senates.

There are four classified employee senates, one at each campus and one at the District headquarters building. Witnesses were unable to provide exact dates for when each of the senates was formed. However, there is evidence that the classified senate was in place at Moorpark College by 1987. The Oxnard College classified senate was formed in about 1985. The Ventura College classified senate was formed in 1989. Finally, the classified senate at the District headquarters was formed in the fall of 1991 or spring of 1992.

There is no evidence the District controlled or otherwise participated in the formation of the various classified senates. Landra Adams, the founding president of the Ventura College classified senate, was the only witness who directly participated in the formation of a classified senate. She testified that her first contact with administrators about the senate at Ventura took place after she and others already had formed it. She testified that she and the other organizers used a copy of the constitution and bylaws of the college academic senate as a model when they prepared similar rules for the classified senate.

The only other testimony about the formation of a classified senate was provided by SEIU witness Kathleen Roussin. She said that District office employees did not form a classified senate as early as employees at the three campuses. After Thomas Lakin became District chancellor, she testified, he stated during a

staff meeting that he would like to see a classified senate formed at the District office. She testified that a senate was organized after he made the comment but she had no knowledge about the circumstances of its formation.

The constitutions and bylaws of the three campus classified senates all disavow any role in negotiable activities.[2] Although not identical, they are closely parallel on this matter. The constitution of the Ventura College classified senate is representative. It sets out the following purpose:

> The purpose of this organization shall be to address the non-union concerns of the classified staff and interface with College management in the implementation of solutions and the development and implementation of College goals and objectives.

The phrases "non-union concerns" and/or "non-union issues" are written at various places in each of the senate bylaws and constitutions. Neither phrase is defined, however, and as the record makes clear, the participants in this dispute are not in agreement about what constitutes a "non-union concern."

All regular, permanent, classified employees, including supervisors, are by virtue of employment members of the classified senates. They need take no action in order to join. Officers of the senates are elected by senate members, including supervisors. Collectively, the officers of the various senates comprise leadership bodies which are known as the classified council at Moorpark and Ventura Colleges and as the classified

[2]At the time of the hearing, the District office classified senate had not yet written its constitution and bylaws.

senate board at Oxnard. Meetings of these bodies are open to all senate members and generally are known as "senate meetings" among classified employees.

It is clear that rank-and-file unit members control the senates. The evidence establishes very light participation by supervisory and confidential employees.[3] There is no evidence that any supervisory employee serves as a leader of a senate. Nor is there evidence of managerial control or interference in the operation of the classified senates. Confidential employees have held senate leadership positions as, occasionally, have SEIU activists.

There is some evidence that senate leaders have been allowed to use District copy machines for senate business. SEIU officers have been required to reimburse the District for use of copy machines by the Union. There also is evidence that the District paid the expenses for a senate representative to attend an out-of-town meeting for officers from classified senates from throughout California.

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[3]There was testimony that hone of the 29 persons attending a December 16, 1993, meeting of the Oxnard classified senate was a supervisory employee. One was a confidential employee. (See charging party exhibit no. 30.) Of 12 persons attending a January 15, 1992, meeting of the District office senate, one was a supervisor and two were confidential employees. (See charging party exhibit no. 38.) Of 13 persons attending a January 13, 1993, meeting of the District office senate, two were supervisors. (See charging party exhibit no. 39.) Of eight persons attending a July 28, 1993, meeting of the District office senate, one was confidential. (See charging party exhibit no. 43.) Of approximately 10 persons attending the December 1993 meeting of the Moorpark classified senate, all were members of the two bargaining units. (See Reporter's Transcript, Vol. I, pp. 29-30.)

Although there is conflicting testimony, the preponderance of the evidence supports a finding that some released time is provided for attendance at senate meetings. Most of the classified senates meet once a month, typically beginning at 12 noon. Senate meetings are of varying length, lasting until 1 p.m., 1:30 p.m., or 2 p.m. There was evidence that most of the time they are completed by 1:30 p.m. which means that employees in attendance have gone 30 minutes past the lunch hour. Several witnesses testified that they have never been required to make up time spent attending meetings of classified senates and they do not know of anyone else being required to make up time.

Two witnesses, Sandy Hajas and Nadene Ronan, testified that they are required to make up time spent on activities of the classified senates. Both said they had understandings with their supervisors that they must make up the time. Neither is required, however, to keep a log of time owed and time made up or to advise their supervisors that they have made up lost time. I find this complete absence of a requirement for documentation tantamount to a District grant of released time.

SEIU witnesses testified that they are given released time while meeting and negotiating with the District and processing grievances. SEIU members are not given released time to attend Union meetings or for other Union activities. One SEIU activist, treasurer Kathleen Roussin, testified that she is required by her supervisor to keep a log identifying all time lost for Union activities and showing when the time was made up.

Although SEIU has complained about the senates, the record makes clear that until about a year before the hearing SEIU worked cooperatively with them.[4] SEIU President Leanne Colvin joined with the Moorpark College classified senate president to form a group called the "Classified Leadership Council." The purpose of this group, Ms. Colvin testified, was to ensure that classified employees presented a united front to the District. "I felt it was important that we stay together and stick together on issues, and not allow ourselves to be divided by management," she testified, "which [is] why we don't meet anymore, because that's basically what happened."

SEIU also cooperated with the senates for a time in the joint filling of vacancies on District committees in accord with section 4.11 of the agreement between the parties. That provision, which was written into the contract in 1990, reads as follows:

> The Chancellor/President will determine the need to appoint a classified representative to committees whose actions affect bargaining unit employees. The Representative will be agreed upon jointly by the Chancellor/ President, the Classified Senate, and the Union.

Under section 4.11, it was the practice of SEIU and the senates to send out a joint notice to all classified employees about openings on committees. They then would review the applicants

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[4]This changed when Union leaders became aware of Redwoods Community College District (1987) PERB Decision No. 650 (Redwoods) and began to cite it with regularity in communications with the District and the classified senates.

and recommend a candidate to the appropriate administrator. The power to appoint was retained by management.

Union President Colvin testified that the Union had proposed that it be given the authority to choose the classified employee representatives to District committees. She said that the District negotiator responded that the Union only represented Union members and that the classified senates represented all classified employees. She said that the only way the Union could get any role in the appointment process was by including the classified senates. The Union therefore agreed to participation by the senates. Ms. Colvin's testimony on this point was uncontradicted.

During the 1993-94 negotiations, the Union once again proposed that it be given exclusive control over the appointment of classified employees to committees. The District proposed, instead, that section 4.11 be deleted in its entirety. District negotiator Jerry Pauley, the associate vice chancellor for human resources, told Union negotiators that the senates had expressed "unhappiness" with the section. Since SEIU also was unhappy with the section, he proposed that an appointment procedure be developed by a shared governance committee comprised of senate and Union representatives.

Landra Adams, who was the chair of the shared governance committee, testified that her disagreement with the contractual provision was its uncertainty. She said it did not state how the Union, the senate and the administration were to arrive at a

joint decision. Moreover, she testified, each campus had chosen a different way to implement the contract provision.

The Union disliked the shared governance approach, believing it gave too much influence to the classified senates. As of the date of the hearing, the Union had withdrawn from participation on the shared governance committee and the dispute over section 4.11 remained unresolved.

In addition to the dispute about the role of the senates in appointments, the Union also is concerned about what it views as a growing intrusion of the senates into other negotiable areas. The Union presented evidence of classified senate activity in these additional areas: possible employee layoffs, early retirement, a study of employee classifications, health benefits, hours of work and agency fees. Senate involvement in these areas ranged from simply providing a forum at which information could be distributed to active opposition to positions taken by SEIU.

The possibility of layoffs became a topic of concern among classified employees in 1993 when the District found itself in difficult financial straits. In March, the Oxnard classified senate invited the college president, Elise Schneider, and the District director of human resources, Patricia Marchioni, to attend a senate meeting and discuss the financial picture. The two administrators did attend the senate's March 11 meeting. At that session Dr. Schneider described the District's financial condition and the possibility of layoffs. She also voiced a commitment to protect the jobs of classified employees.

Ms. Marchioni explained the layoff and bumping procedure and answered questions.[5]

One vehicle the District chose for easing the financial shortfall was an early retirement plan. The senates were quickly involved in it by the District. The former District vice chancellor for instruction, John Talman, contacted the senates and asked them to arrange a meeting so he could talk to employees about a golden handshake retirement plan. He sent to the senates a list of employees who might be interested in early retirement. At least one of the senates, that at Ventura College, monitored the progress of employee acceptance of the early retirement offer. Minutes of the June 3, 1993, meeting show that the senate president made a report to members about the number of employees who accepted early retirement.

At least one senate, that at the District office, voted to ask the District to conduct a classification study. Such a study would involve an examination of the work performed by classified employees to determine if any employees should be given an upgrade. Minutes of the May 28, 1993, District office senate projected a cost of $40,000 to conduct the study and $200,000 to

[5]The layoff procedure also was discussed at the May 28, 1993, meeting of the District office classified senate. At that meeting, however, it was placed on the agenda by SEIU treasurer Roussin who made a presentation on the subject. She explained the applicable provisions of the Education Code. She testified that she discussed the subject at a classified senate meeting because she wanted the Union to inform employees "where they could find the answers, who they could talk to and what the procedure was to get the proper information."

$500,000 to implement its results.[6] SEIU was at that time proposing a classification study as part of its negotiations with the District.

Peripheral senate involvement with health benefits was proposed by a District administrator but dropped by the District when SEIU raised objections. At issue was senate participation in a Wellness Committee which was to meet as a subcommittee of the Employee Benefit Insurance Committee. The Employee Benefit Insurance Committee is a joint committee of teaching and classified employee unions and management. Its purpose is to reach consensus on health benefit plans for all District employees. On November 30, 1992, Jeff Marsee, District vice chancellor for administrative services, sent a memo inviting all presidents of the classified senates, the academic senates, SEIU and the exclusive representative of instructors to appoint members to a Wellness Committee. After SEIU objected to participation by the classified senates, Mr. Marsee suspended the request for appointments.

A District administrator similarly invited the classified senate at Moorpark College into a discussion about changing the summertime hours of work for classified employees. In a

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[6]The minutes reflect a single negative vote. It was cast by SEIU treasurer Roussin who said she did not believe the senate should have been discussing what she considered to be a negotiable subject. By contrast, the issue of a classification study also was discussed by the classified senate at Ventura College. There, it was raised by Cheryl Herrmann, the campus vice president for SEIU, who sought senate support for conducting the study immediately.

February 7, 1994, memo, Moorpark College President Jim Walker invited both the SEIU chapter president and the president of the college classified senate to meet with him about hours. He proposed closing the college on Fridays during approximately eight weeks of summer. In the memo, he outlined alternatives for how employees might satisfy the required work week of 40 hours with a four-day per week work schedule. He also outlined what he perceived as advantages and disadvantages of the change.

It is clear from the context of the memo that Mr. Walker planned to seek agreement from the SEIU and senate presidents to make the change in hours. It is clear also that he anticipated some form of give-and-take at the meeting he had scheduled with the two classified representatives. The meeting had not been held as of the date of the hearing due to the unavailability of the president of the Moorpark classified senate.

It was the classified senate from Oxnard College that inserted itself into negotiations between SEIU and the District over agency fees. The Union-proposed during the 1993 negotiations that the contractual Union security clause be modified to include agency fees. The District position was to eliminate the existing clause which provided for maintenance of membership.

On April 28, 1993, the Oxnard College classified senate sent a memo to Mr. Pauley. Attached to the memo was a petition signed by numerous employees urging Mr. Pauley not to agree to an agency

shop provision with SEIU.[7] The memo described the purpose of the petition as a statement "that we are against Article #3 (agency-shop) , which is being presented by our Union in the initial proposal for our upcoming contract negotiations." Although the petition contains many signatures, the identity of the author of the covering memo is not revealed. Copies of the memo and petition were sent to SEIU officers. There is no evidence that the Oxnard senate ever repudiated the memo and I find that it was sent to the District as an act of the senate and not of individual senate members.

At a negotiating session on May 17, 1993, District negotiator Marchioni cited the petition as a reason for not agreeing to the Union's agency fee proposal. Union President Colvin quoted her as saying that the District had been informed by the Oxnard classified senate that some of the employees did not want agency fees because they felt that the Union represented Union members, only.[8] As of the date of the hearing, the parties had not discussed Union security again and the issue remained unresolved.

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[7]See charging party exhibit nos. 12 and 26.

[8]In its brief, the District broadly asserts that "much of the presentation of SEIU's case in chief was presented through hearsay evidence that was not corroborated with non-hearsay evidence." The District made no hearsay objection to this testimony by Ms. Colvin at the time it was taken (see Vol. I, p. 52 of the reporter's transcript). I want it to be clear, nevertheless, that I do not consider Ms. Colvin's testimony on this point to have been hearsay. The statement made by Ms. Marchioni was a verbal act by the District. An in-court recitation of a verbal act is not hearsay testimony.

In addition to involving the senates in negotiable subjects, the District by various manifestations has accorded a prominence to the senates that equals or exceeds that granted to the Union. The classified senates, for example, are provided a regular time to speak at meetings of the District board of trustees. SEIU representatives must complete a card requesting to speak during the comments by the public portion of the meeting. The desk at which senate representatives sit during board of trustee meetings has a microphone, whereas the Union desk does not. The District often addresses communications to all four of the classified senate presidents and the SEIU president, thus according each of the four senates a status equivalent to the Union.

The prominence accorded to the senates at meetings of the District board of trustees is due at least in part to a request made by the Classified Leadership Council. Council President Pattie McPhun on February 28, 1992, wrote to the District chancellor and asked that the senates be given a regular place on the agenda, like the academic senate. The reason for this request was to permit the classified senates "to give a report or make comments without the need for filling out a form such as the public must do." She also asked that the classified senates be given a table behind the table of the academic senate. A copy of the February 28 memo was sent to SEIU President Colvin but she testified that she had no recollection participating in the meeting that led to its writing. There is no evidence that she did.

The status of the senates has not been lost on individual employees. In February of 1993, at the time the District was facing budget cuts, one employee wrote to a classified senate to oppose any plan to reduce the classified employee work year to 11 months. The employee stated that she was a single mother and could not afford the pay reduction. She urged that the senate "[p]lease consider this seriously, as I'm sure I'm not the only one in this position." The employee's letter was discussed at a classified senate meeting.

## LEGAL ISSUES

1) Did the District contribute unlawful support to the classified senates and thereby violate section 3543.5(d), and derivatively, (a) and (b)?

2) Did an agent of the District, on or about March 11, 1993, discuss with representatives of the classified senates "negotiable options" not previously presented to SEIU and thereby violate section 3543.5(c), and derivatively, (a) and (b)?

## CONCLUSIONS OF LAW

Public school employers are prohibited by the EERA from dominating or interfering with the formation of any employee organization. They also are prohibited from contributing financial or other support to an employee organization or "in any way" encouraging employees to join one organization in preference to another. (Sec. 3543.5(d).)

Where there is an allegation of employer domination or unlawful support, the first inquiry is whether the employer's

actions involve an "employee organization" under the statute. An "employee organization" must include public school employees among its members and must have as "one of its primary purposes" representing those employees in their relations with the public school employer.[9] Thus two elements are necessary: participation by employees of the public school employer and a representational purpose.

SEIU argues that the classified senates fit the statutory measurements for an employee organization. Plainly, the vast majority of their members are public school employees.[10] Moreover, SEIU contends, "there can be no dispute about the representative nature of the [s]enates." The representational purpose, SEIU continues, can be found both in the governing papers and the regular actions of the senates.

It is not difficult for a group of employees to qualify as an employee organization. The Board long ago determined that an

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[9]Section 3540.1 sets out the following definition:

> (d) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing those employees in their relations with that public school employer. "Employee organization" shall also include any person such an organization authorizes to act on its behalf.

[10]Section 3540.1 sets out the following definition:

> (j) "Public school employee" or "employee" means any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees.

organization need not have a formal structure, seek exclusivity or be concerned with all aspects of the employment relationship in order to constitute a labor organization. The Board's inquiry is whether the group has as a central focus the representation of employees on employment-related matters. (State of California (Department of Developmental Services) (1982) PERB Decision No. 228-S.) Accordingly, a faculty forum established "to improve communications and solve problems" and where negotiable subjects were discussed qualified as an employee organization. (Oak Grove School District (1986) PERB Decision No. 582 (Oak Grove).) It was irrelevant that negotiations never took place between the school district and the forum.

The Board, nevertheless, has made clear its view that employee groups may exist apart from exclusive representatives and may lawfully communicate with the employer. The critical requirement is that such groups remain outside the representational environment. This point first was made in Oak Grove and then reemphasized in Redwoods.[11] Quoting with approval

[11]In Redwoods Community College District the Board found it "prudent to repeat [the following] passage" from its decision in Oak Grove School District:

> This is not to say that all faculty councils or groups are per se unlawful, or that individual employees cannot speak to their employers about working conditions, including those within the scope of representation. But when the District sets up an organized group of teachers [or other represented employees] to meet at regular intervals on school time to discuss topics of mutual interest, it permits discussion of negotiable

various National Labor Relations Board (NLRB) decisions, the Board set out two circumstances in which employee groups could conduct lawful relationships with employers. These circumstances occur where the employee groups "engage in a mere discussion with management, rather than making recommendations to management" or where "management has delegated actual decision-making authority" to the groups. (Redwoods) The classified employees council in Redwoods did not meet either test because its activities "went beyond discussions, but fell short of constituting delegated managerial decision-making authority." (Ibid.)

The PERB has not revisited the question of employer relationships with employee groups since Redwoods. The NLRB did review the question last year in E.I. du Pont de Nemours & Co. (1993) 311 NLRB No. 88 [143 LRRM 1121]. There, the NLRB found certain employer-dominated employee committees to be unlawful but found to be lawful the activities of one committee. In a discussion about the types of organizational activities which would be lawful, the NLRB described several examples. A "brainstorming group" would be permissible because its purpose would be solely to gather a host of ideas. Also permissible would be a committee "for the purpose of sharing information" if that committee makes no proposals to the employer and the employer, after gathering the information, does with it as it wishes. Also permitted would be a decision-making committee where management representatives were in the minority and the

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subjects at its own risk.

committee had the power to decide rather than just make proposals.[12]

It is apparent, as SEIU asserts, that the faculty senates have a representational purpose. The senate constitutions and bylaws set out their purpose as being "to address the non-union concerns of the classified staff and interface with College management in the implementation of solutions." Notwithstanding the academic jargon, any organization that addresses employee concerns by "interfacing" with management "in the implementation of solutions" is representing employees.

Not only is a representational purpose disclosed in the constitutions and bylaws of the senates, it is evident in their actions. The senates, for example, have tussled with the Union over control of the process for nominating classified employees to District committees. In the District's shared governance method of decision making, committee appointments can be significant. The Wellness Committee, one of the groups over which the Union and the senates were in dispute, makes recommendations to the Health Benefits Committee which effectively determines employee health benefits.

The senates also evidenced a representational purpose in the discussions about the District's budget problems in the spring of 1993. The Oxnard classified senate invited the college president and the District director of human resources to a senate meeting to discuss the financial situation. The two administrators

[12]These examples are discussed at 143 LRRM 1124.

attended the meeting, described the financial situation, the possibility of layoffs and explained the bumping procedure. Although the primary purpose of the meeting was informational, I conclude that the senate also was attempting to "interface with College management in the implementation of solutions." The persons invited by the senate were from the highest levels of management. What the senate sought and secured was a commitment that efforts would be made to protect the jobs of classified employees.

That the District also saw the senates as having a role in easing the financial problem is apparent in the actions of former Vice Chancellor Talman. He solicited the assistance of the senates in finding candidates for an early retirement program. He asked the senates to arrange a meeting so he could talk to potential early retirees and he sent the senates a list of employees who might be interested. Layoff and early retirement are directly related to wages and clearly are subjects within the scope of representation.[13]

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[13]The scope of representation is set out in EERA section 3543.2. This sections provides, in relevant part, as follows:

> (a) The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. "Terms and conditions of employment" mean health and welfare benefits as defined by Section 53200, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security pursuant to Section 3546, procedures for processing grievances pursuant to Sections 3548.5, 3548.6, 3548.7,

Still another representational role into which the District invited the senates occurred at Moorpark College. There, the college president in February of 1994 invited the classified senate president to join him and the SEIU president for a discussion about his plan to change work hours for the summer. Hours of work are a negotiable subject and a matter within the purview of the exclusive representative. Yet the college president invited the senate as an equal partner of the Union in what obviously was to be a give-and-take about a change in hours.

Finally, there is an obvious representational purpose in the request of the Oxnard classified senate that the District reject the Union's request in negotiations for an agency shop clause. In its memo to the District, the senate purported to speak on behalf of classified employees. The senate took a position exactly opposite to that of the Union on a negotiable subject. The District then used the senate opposition as its rationale for rejection of the Union's request for an agency fee clause.

The classified senates thus evidence a higher level of organization and representational purpose than the Board has required in previous cases. They are formal organizations with

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> and 3548.8, the layoff of probationary certificated school district employees, pursuant to Section 44959.5 of the Education Code, and alternative compensation or benefits for employees adversely affected by pension limitations pursuant to Section 22515 of the Education Code, to the extent deemed reasonable and without violating the intent and purposes of Section 415 of the Internal Revenue Code. . . .

constitutions and bylaws. They have elected officers who conduct regular meetings and keep minutes. They project a representational purpose in both word and deed. They are not discussion groups or brainstorming groups or committees with the full power to make final decisions. They are representational bodies composed of employees and are clear rivals to the Union. I conclude, therefore, that the academic senates are employee organizations as defined in the statute.

Nevertheless, the District argues that the rules set out by the PERB in Redwoods are largely inapplicable because of a 1988 change in the law. That enactment[14] required, among other changes, that the Board of Governors of the California Community Colleges (Board of Governors) establish minimum standards to ensure:

> . . . faculty, staff and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration. . . (Ed. Code, sec. 70901(b) (1) (E).)

The statute required further that the board of trustees of each individual community college district establish procedures not inconsistent with the minimum statewide standards to ensure:

> . . . faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college

[14]Chapter 973, statutes of 1988.

> governance . . . . (Ed. Code, sec. 70902(b)(7).)

In accord with these requirements, the Board of Governors adopted rules requiring the local districts to provide an opportunity for employees to "participate in the formulation and development of district and college policies and procedures." (Cal. Code of Reg., tit. 5, sec. 51023.5(a)(4).) The rules also require local districts to allow the local employee groups to select "staff representatives to serve on college and district task forces, committees, or other governance groups. . . ." (Cal. Code of Reg., tit. 5, sec. 51023.5(a)(7).)

In adopting these regulations, however, the Board of Governors displayed a clear understanding of the status of exclusive representatives. The regulations virtually incorporate section 3540(d) and specifically prohibit unlawful support and the intrusion by staff committees into negotiable subjects.[15]

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[15]California Code of Regulations, title 5, section 51023.5(b) reads as follows:

> In developing and carrying out policies and procedures pursuant to subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code sections 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the

The regulations prohibit any interference in the right of employees to engage in protected conduct and interference with negotiated agreements. They show sensitivity to the rights of exclusive representatives and make clear an intent that shared governance should not intrude upon collective bargaining relationships.

Unlike the District, I do not find anything in the 1988 enactment or subsequent regulations of the Board of Governors that affects the principles set out in Redwoods. If anything, the regulations make it clear that shared governance is not to usurp the relationship between community college districts and exclusive representatives. The regulations also make it clear that shared governance is inapplicable to matters within the EERA scope of representation. Accordingly, I conclude that the 1988 enactment and subsequent regulations are irrelevant to the disposition of this matter.

The District next asserts that SEIU is estopped by its own involvement with the classified senates from claiming unlawful domination and support by the District. The District argues that

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> purpose of representation on all matters of employer-employee relations. Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

SEIU through its agreement to contract section 4.11 and the participation of SEIU officers in senate activities in effect has consented to the District's involvement with the senates. For this reason, the District concludes, the Union cannot now complain.

The District reads far too much into the Union's prior relationship with the senates. While Union members and officers have participated in activities of the senates, there is no evidence the Union ever controlled the senates or, alternatively, ceded its statutory rights to them. It is clear that the Union for a time cooperated with the senates in an attempt to achieve its own goals. But from the Union's point of view this was a marriage of necessity, not one of desire. At that time, Union leaders viewed the senates as bodies they were powerless to challenge. Union leaders sought to work out an accommodation with the senates so, in the words of Ms. Colvin, classified employees could "stick together on issues and not allow ourselves to be divided by management." By pursuing this course, the Union did not estop itself from challenging unlawful support of the senates by the District.

The evidence thus establishes that the senates are employee organizations and that neither regulatory change nor estoppel bars examination of the District's relationship with them. The inquiry now turns to whether the District provided financial or other assistance to the senates.

Under section 3543.5(d) it is an unfair practice for a public school employer to "contribute financial or other support" to an employee organization or to "in any way encourage employees to join any organization in preference to another." The PERB has interpreted this language as imposing "an unqualified requirement of strict neutrality." (Clovis Unified School District (1984) PERB Decision No. 389.) There is no requirement that the aggrieved employee organization show that the employer intended its actions to impact on employee free choice. "The simple threshold test . . . is whether the employer's conduct tends to influence that choice or provide stimulus in one direction or the other." (Santa Monica Community College District (1979) PERB Decision No. 103.) It is unnecessary that the organization for which the employer expressed preference be a formally constituted organization. (Clovis Unified School District: Sacramento City Unified School District (1982) PERB Decision No. 214.)

Measured against these standards, it is clear that the District has provided unlawful support for the senates. This unlawful support has occurred both in the form of financial assistance and open deference to senate positions on negotiable topics. In both regards, the District acted improperly.

The District has allowed the senates to use District copy machines while requiring the Union to pay for such use. It has provided release time for senate officers and members to attend meetings while requiring Union members to make up all time except

for activities defined in the statute.[16] It has given the senates favored seating and speaking privileges at meetings of the District board of trustees. Although the District argues that the Union was complicit in its decision to provide the senates with these benefits, I find its evidence unpersuasive.

More critically, however, the District has dealt with the senates on negotiable topics. The District has sought to give the senates the exclusive role of recommending classified employees for appointment to committees that make recommendations and/or decisions on negotiable matters. The District also has dealt with the senates regarding layoffs, early retirement, a change in hours and agency shop, all matters within the scope of representation. Further, the District has justified negotiating positions regarding appointments to committees and agency shop on the views of the senates. Effectively, the District has granted the senates a role as absent parties in the negotiations between the District and the Union.

Upon the certification of an exclusive representative, the employer is obligated to refrain from negotiating directly with employees in the bargaining unit or other organizations. (Walnut

[16]Public school employers are required to grant released time for certain representational activities. Section 3543.1 provides in relevant part that:

> (c) A reasonable number of representatives of an exclusive representative shall have the right to receive reasonable periods of released time without loss of compensation when meeting and negotiating and for the processing of grievances.

Valley Unified School District (1981) PERB Decision No. 160; Hanford Joint Union High School District (1978) PERB Decision No. 58.) Once an exclusive representative has been chosen, "only that employee organization may represent that unit in their employment relations with the public school employer." (Sec. 3543.1(a).) Yet the District here not only granted the senates a representative role, but also openly favored senate positions.

Accordingly, I find that the District violated section 3543.5(d) by providing unlawful assistance to the classified senates. This action had the concurrent effect of denying the Union the right to represent its members in violation of section 3543.5(b). Since there is no evidence that the unlawful assistance to the classified senates also denied to individual employees rights protected by the EERA, the allegation that the District violated section 3543.5(a) must be dismissed. (See Tahoe-Truckee Unified School District (1988) PERB Decision No. 668.)

The Union also argues that the District has dominated the senates in their formation and operation. Because of this domination, it asks that the senates be disestablished. On this contention, the Union has failed to prove its allegation. The record is devoid of evidence that the District had any role in the establishment of the senates at the three colleges. The only evidence on the point is from Landra Adams who credibly testified that she had no contract with administrators at Ventura College until after she and others already had formed the senate. There

is evidence that the District chancellor encouraged the formation of a classified senate at the District office. There is no evidence, however, that he or any other administrator took a subsequent role in its formation. It is clear from the minutes of senate meetings that no managers and very few supervisors attend senate meetings. Senate officers are elected by classified employees and there is no evidence of District influence in the outcome. In short, the evidence of employer domination is completely lacking.

Finally, the complaint alleges that the District at a March 11, 1993, meeting, of the Oxnard classified senate discussed "negotiable options" not previously presented to SEIU. Evidence that an employer has negotiated with a rival group of employees may show both a bypassing of the exclusive representative and unlawful preference between organizations. When an employer bypasses the exclusive representative and negotiates directly with employees, an employer fails to negotiate in good faith in violation of section 3543.5(c).

However, the contention that the District bypassed the Union by its action at the March 11, 1993, meeting is devoid of proof. There is no evidence that the District acted in a manner that was inconsistent with the agreement between SEIU and the District. Nor is there evidence that anything stated by District agents represented a change in positions the District had taken with the Union.

Accordingly, I conclude that the District did not bypass the Union by its conduct at the meeting of March 11, 1993. The alleged violation of EERA section 3543.5(c) and (a) and (b) for the second cause of action must therefore be dismissed.

REMEDY

The PERB in section 3541.5 (c) is given:

> . . . the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

Here, the District has unlawfully supported the classified senates by allowing the senates to use District copy machines and allowing senate officers and members to attend meetings on released time.. The District also has given the senates favored seating and speaking privileges at meetings of the District board of trustees and shown a favoritism toward the senates. The District has dealt with the senates on negotiable topics. The District has justified positions it took in negotiations with SEIU by stating that the senates were opposed to SEIU proposals.

The ordinary remedy in a case involving unlawful support is an order that the employer cease and desist its unlawful support of the rival organization. The Union seeks the further remedy of an order that the classified senates be disestablished. A cease and desist order is appropriate in cases of unlawful support. Where there is employer domination, disestablishment of the dominated organization is the appropriate remedy. (Redwoods.)

Since employer domination of the senates was not proven here, the remedy will be limited to a cease and desist order.

It is further appropriate that the District be directed to post a notice incorporating the terms of the order. Posting of such a notice, signed by an authorized agent of the District, will provide employees with notice that the District has acted in an unlawful manner, is being required to cease and desist from this activity, and will comply with the order. It effectuates the purposes of the EERA that employees be informed of the resolution of this controversy and the District's readiness to comply with the ordered remedy. (Placerville Union School District (1978) PERB Decision No. 69.)

PROPOSED ORDER

Upon the foregoing findings of fact and conclusions of law and the entire record in the case, it is found that the Ventura County Community College District (District) violated section 3543.5(d) of the Educational Employment Relations Act (Act). The District violated the Act by unlawfully supporting the classified senates and dealing with the senates on negotiable topics. Because this action had the additional effect of interfering with the right of the Service Employees International Union, Local 535, to represent its members, the District's unlawful support of the classified senates was a violation of section 3543.5(b). The allegation that the District's conduct violated section 3543.5(a) and all other allegations are hereby DISMISSED.

Pursuant to section 3541.5(c) of the Government Code, it hereby is ORDERED that the District, its governing board and its representatives shall:

A. CEASE AND DESIST FROM:

1. Contributing financial or other support to the classified senates or in any other way showing a preference for the senates over the exclusive representative or any other employee organization.

2. Dealing with the classified senates on negotiable topics while there is an exclusive representative of classified employees and thereby showing a preference for the senates and interfering with the right of the exclusive representative to represent its members and others in the bargaining units.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Within ten (10) workdays of the service of a final decision in this matter, post at all work locations where notices to classified employees customarily are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the District, indicating that the District will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material.

2. Upon issuance of a final decision, make written notification of the actions taken to comply with the Order to the

San Francisco Regional Director of the Public Employment Relations Board in accord with the director's instructions.

Pursuant to California Code of Regulations, title 8, section 323 05, this Proposed Decision and Order shall become final unless a party files a statement of exceptions with the Board itself at the headquarters office in Sacramento within 20 days of service of this Decision. In accordance with PERB Regulations, the statement of exceptions should identify by page citation or exhibit number the portions of the record, if any, relied upon for such exceptions. (See Cal. Code of Regs., tit. 8, sec. 32300.) A document is considered "filed" when actually received before the close of business (5:00 p.m.) on the last day set for filing ". . .or when sent by telegraph or certified or Express United States mail, postmarked not later than the last day set for filing . . . ." (See Cal. Code of Regs., tit. 8, sec. 32135; Code of Civ. Pro. sec. 1013 shall apply.) Any statement of exceptions and supporting brief must be served concurrently with its filing upon each party to this proceeding. Proof of service shall accompany each copy served on a party or filed with the Board itself. (See Cal. Code of Regs., tit. 8, secs. 32300, 32305 and 32140.)

Ronald E. Blubaugh
Administrative Law Judge