

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



JERRY RUBEN RODRIQUEZ, )  
 ) Case No. SF-CO-489  
 Charging Party, )  
 ) Request for Reconsideration  
 v. ) PERB Decision No. 1121  
 )  
 CALIFORNIA SCHOOL EMPLOYEES ) PERB Decision No. 1121a  
 ASSOCIATION AND ITS CHAPTER #149, )  
 ) March 12, 1996  
 Respondent. )  
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Appearance: Jerry Ruben Rodriguez, on his own behalf.  
Before Caffrey, Chairman; Garcia and Johnson, Members.

DECISION

GARCIA, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Jerry Ruben Rodriguez (Rodriquez) of the Board's decision in California School Employees Association and its Chapter #149 (Rodriquez) (1995) PERB Decision No. 1121 (CSEA (Rodriquez)). In that decision, the Board affirmed a Board agent's dismissal of Rodriquez's unfair practice charge as untimely filed. That charge alleged that the California School Employees Association and its Chapter #149 (CSEA) breached its duty of fair representation mandated by section 3544.9 of the Educational Employment Relations Act (EERA), thereby violating EERA section 3543.6(b)<sup>1</sup> when it failed to fairly represent him

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<sup>1</sup>EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Section 3544.9 states:

The employee organization recognized or certified as the exclusive representative for

with regard to certain employment disputes with his employer, the Salinas City Elementary School District.

Rodriquez filed a request for reconsideration of CSEA (Rodriguez) on the grounds that: the Board acted without its powers, the decision was procured by fraud, the evidence does not justify the findings of fact, and he has discovered new evidence. He concludes by repeating his earlier position that CSEA violated his rights under EERA on a continuing basis and therefore his unfair practice charge was timely filed.

#### DISCUSSION

PERB Regulation 32410(a) states, in pertinent part:

The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

Rodriquez does not offer any persuasive evidence or explanation to support his request for reconsideration. Although he offers

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the purpose of meeting and negotiating shall fairly represent each and every employee in the appropriate unit.

Section 3543.6 provides, 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.

new evidence, he does not explain why it is either newly discovered or not previously available.

Rodriguez's request for reconsideration repeats the position he has taken before (i.e., that the charge was timely filed because he is the victim of a continuing violation). Reconsideration is not appropriate when a party merely restates arguments and issues previously considered and rejected by the Board in the underlying decision. (California State Employees Association. Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S; California Faculty Association (Wang) (1988) PERB Decision No. 692a-H; Tustin Unified School District (1987) PERB Decision No. 626a; Riverside Unified School District (1987) PERB Decision No. 622a.) Under these cases, the Board finds that Rodriguez's request does not meet the criteria in PERB Regulation 32410(a).

#### ORDER

The request for reconsideration of California School Employees Association and its Chapter #149 (Rodriguez) (1995) PERB Decision No. 1121 is hereby DENIED.

Chairman Caffrey and Member Johnson joined in this Decision.