

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



TIMOTHY G. SIMERAL,)
)
 Charging Party,) Case No. SA-CE-1858
)
 v.) Request for Reconsideration
) PERB Decision No. 1334
 MADERA COUNTY OFFICE OF EDUCATION,)
) PERB Decision No. 1334a
 Respondent.)
)
) September 2, 1999

Appearances: Timothy G. Simeral, on his own behalf; Stroup & de Goede by Raymond W. Dunne, Attorney, for Madera County Office of Education.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

CAFFREY, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on a request by Timothy G. Simeral (Simeral) that the Board reconsider its decision in Madera County Office of Education (1999) PERB Decision No. 1334. In that case, the Board dismissed Simeral's charge that the Madera County Office of Education violated section 3543.5(a) of the Educational Employment Relations Act (EERA)¹ by retaliating against him for his participation in

¹EERA is codified at Government Code section 3540 et seq. Section 3543.5 states, in pertinent part:

It shall be unlawful for a public school employer to do any of the following:

- (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

protected activities.

DISCUSSION

PERB Regulation 32410(a)² permits any party to a decision of the Board itself, "because of extraordinary circumstances," to request that the Board reconsider its decision. Regulation 32410(a) states, in pertinent part:

The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence.

In considering requests for reconsideration, the Board has strictly applied the limited grounds included in PERB Regulation 32410 to avoid the use of the reconsideration process to reargue or relitigate issues which have already been decided. (Redwoods Community College District (1994) PERB Decision No. 1047a; State of California (Department of Corrections) (1995) PERB Decision No. 1100a-S.) In numerous requests for reconsideration cases, the Board has declined to reconsider matters previously offered by the parties and rejected in the underlying decision. (California State University (1995) PERB Decision No. 1093a-H; California State Employees Association. Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S; California Faculty Association (Wang) (1988) PERB Decision

this subdivision, "employee" includes an applicant for employment or reemployment.

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

No. 692a-H; Tustin Unified School District (1987) PERB Decision
No. 626a-H; Riverside Unified School District (1987) PERB
Decision No. 622a.)

Simeral's request for reconsideration refers to matters previously considered in the underlying decision, and does not demonstrate that the Board's decision contains prejudicial errors of fact. Additionally, the request presents no new evidence which could not have been discovered with the exercise of reasonable diligence. Consequently, Simeral's request for reconsideration does not describe extraordinary circumstances and fails to demonstrate grounds sufficient to comply with PERB Regulation 32410.

ORDER

The request for reconsideration in Madera County Office of Education (1999) PERB Decision No. 1334 is hereby DENIED.

Members Dyer and Amador joined in this Decision.