

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



CALIFORNIA SCHOOL EMPLOYEES)
ASSOCIATION AND ITS LONG BEACH)
COMMUNITY COLLEGE CHAPTER #8,)
)
Charging Party,) Case No. LA-CE-4096
)
v.) PERB Decision No. 1378
)
LONG BEACH COMMUNITY COLLEGE) February 28, 2000
DISTRICT,)
)
Respondent.)
_____)

Appearances: California School Employees Association by Madalyn J. Frazzini, Deputy Chief Counsel for California School Employees Association and its Long Beach Community College Chapter #8; Parker, Covert & Chidester by Spencer E. Covert, Attorney for Long Beach Community College District.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

CAFFREY, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the California School Employees Association and its Long Beach Community College Chapter #8 (CSEA) of a Board agent's partial dismissal of CSEA's unfair practice charge. The Board agent dismissed those portions of the charge which alleged that the Long Beach Community College District (District) violated section 3543.5(a), (b), (c) and (d) of the Educational Employment Relations Act (EERA)¹ by refusing to commence negotiations over a

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

successor collective bargaining agreement until CSEA ratified a tentative agreement reached by the parties concerning a specific contractual provision.²

The Board has reviewed the entire record in this case, including the original and amended unfair practice charge, the Board agent's partial warning and dismissal letters, CSEA's appeal and the District's response thereto. Based on the following discussion, the Board reverses the partial dismissal and remands the case for issuance of a complaint.

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 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.

²On October 27, 1999, the PERB Office of the General Counsel issued a complaint alleging that the District had violated EERA section 3543.5 through other conduct described by CSEA in its unfair practice charge.

BACKGROUND

In August 1998, during reopener negotiations, the District and CSEA reached agreement on modifications to Article 12 (Pay and Allowances) of their collective bargaining agreement. The agreement called for a salary adjustment effective retroactively to July 1, 1997. The agreement provided that the retroactive increase would be paid to bargaining unit members employed "on the date of ratification of this provision," and to employees who had retired from the District between July 1, 1997 and "the date of ratification of this Agreement." The August 1998, agreement also provided:

It is agreed and understood by the District and CSEA that successor negotiations regarding salary and other collective bargaining agreement provisions will commence upon completion of negotiations on Article 27. The District and CSEA will utilize an interest-based bargaining process facilitated by Mr. Ian Walke.

Note: This Tentative Agreement is NOT contingent upon reaching agreement on Article 27. This Tentative Agreement shall be processed for immediate ratification by the parties in accordance with applicable procedures.

The parties then ratified the August 1998 agreement and the District proceeded to pay the retroactive salary increase to eligible employees. The parties also began negotiations over Article 27 and reached a tentative agreement on that article, which was signed in January 1999.

CSEA then requested that the District begin successor negotiations. The District took the position that, under the

August 1998 agreement, ratification of the Article 27 tentative agreement was required prior to the commencement of successor negotiations. From January through March 1999, CSEA continued to demand that successor negotiations begin, and the District continued to maintain that ratification of the tentative agreement on Article 27 was required prior to the commencement of bargaining. In late April, the District agreed to schedule successor negotiations, the first session of which occurred on June 1, 1999. The Article 27 tentative agreement was not ratified prior to the commencement of successor negotiations.

On July 12, 1999, CSEA filed the instant unfair practice charge. The charge as amended, alleges among other things, that the District's conduct constituted a refusal to bargain, a unilateral change in the terms of the parties' August 1998 agreement, and interference with CSEA, in violation of EERA section 3543.5(a), (b), (c) and (d).

DISCUSSION

This case involves a dispute over the meaning of the phrase "completion of negotiations" contained in the parties' August 1998 agreement.

In interpreting contractual provisions, it is unnecessary to look beyond the plain language of the contract when that language is clear and unambiguous. (Marysville Joint Unified School District (1983) PERB Decision No. 314, at p. 9.) However, when contract language is found to be unclear or ambiguous, the Board looks to bargaining history and the past practice of the parties

to ascertain the meaning of the language. (Barstow Unified School District (1996) PERB Decision No. 1138, at p. 13.)

This case involves a dispute over whether the meaning of the phrase "completion of negotiations," as used in the parties' August 1998 agreement, is clear or not. Although the agreement is silent as to a ratification requirement relative to Article 27, the District asserts that the parties intended to include such a requirement. CSEA argues the opposite position.

In cases in which there is a legitimate dispute over the meaning of an agreement, the Board has held that parties should be given the opportunity to offer evidence to support their differing interpretations. (Los Angeles Unified School District (1984) PERB Decision No. 407; Saddleback Community College District (1984) PERB Decision No. 433.) Furthermore, the Board has held that factual allegations offered by a charging party are to be considered true for purposes of determining whether there has been a prima facie showing of a violation. (San Juan Unified School District (1977) EERB³ Decision No. 12.)

Here, the parties disagree over the meaning of contract language. Taking CSEA's allegations as truthful at this stage of PERB's process, the Board concludes that CSEA has demonstrated a prima facie case that the District's conduct violated EERA section 3543.5. Consequently, a complaint should be issued to

Prior to January 1978, PERB was known as the Educational Employment Relations Board or EERB.

provide the parties the opportunity to offer evidence to support their differing interpretations.

ORDER

The Board REVERSES the Board agent's partial dismissal in Case No. LA-CE-4096 and REMANDS the case to the Office of the General Counsel for issuance of a complaint consistent with this Decision.

Members Dyer and Amador joined in this Decision.