

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



ORANGE UNIFIED SCHOOL DISTRICT,

Charging Party,

v.

ORANGE UNIFIED EDUCATION
ASSOCIATION,

Respondent.

Case Nos. LA-CO-805-E
LA-CO-806-E

PERB Decision No. 1436

May 16, 2001

Appearances: Hill, Farrer & Burrill by James A. Bowles, Attorney, for Orange Unified School District; Charles R. Gustafson, Attorney, for Orange Unified Education Association.

Before Amador, Baker and Whitehead, Members.

DECISION

BAKER, Member: These cases come before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Orange Unified School District (District) to an administrative law judge's proposed decision dismissing its two unfair practice charges in Case Nos. LA-CO-805 and LA-CO-806.

By letter dated March 27, 2001, the District informed the Board that the District and the Orange Unified Education Association, the parties to the instant unfair practice charges, have reached a settlement wherein the District agrees to withdraw these charges and request they be dismissed with prejudice. The March 27, 2001 letter included a copy of the settlement agreement. Specifically, the District agreed, among other items:

To seek dismissal, with prejudice, of the following matters now pending before the California Public Employment Relations Board (herein 'PERB'):

i. The unfair practice complaint entitled *Orange Unified School District, et al. v. Orange Unified Education Association, et al.*, Case No. LA-CO-805;

ii. The unfair practice complaint entitled *Orange Unified School District, et al. v. Orange Unified Education Association, et al.*, Case No. LA-CO-806.

After reviewing the settlement agreement and the entire record in this matter, the Board finds that granting the District's request is in the best interest of the parties and is consistent with the purposes of the Educational Employment Relations Act (EERA).¹

DISCUSSION

When parties are successful in settling a dispute that formed the basis for an unfair practice charge before PERB, it is often presented with a request to withdraw a case that has reached the Board itself. The Board reviews each such request to determine whether granting it will effectuate the purposes of the EERA.

Where, as here, exceptions have been filed to a proposed decision, the Board is guided by PERB Regulation 32320,² which provides, in pertinent part:

(a) The Board itself may:

(1) Issue a decision based upon the record of hearing, or

(2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

It is clear that the Board has the discretion to grant or deny the request and to allow the withdrawal of a charge and complaint, and to vacate a proposed decision. (ABC Unified School District (1990) PERB Decision No. 831b.)

¹ EERA is codified at Government Code section 3540 et seq.

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

In this case, the parties have entered into and provided the Board with a copy of a settlement agreement which very clearly indicates the parties have settled their disputes which formed the basis of the instant unfair practice charges. The Board concludes it effectuates the purposes of EERA to dismiss the instant unfair practice charges, dismiss the complaints and vacate the proposed decision.

ORDER

Accordingly, it is hereby ORDERED that the unfair practice charges in Case Nos. LA-CO-805-E and LA-CO-806-E are WITHDRAWN WITH PREJUDICE; the complaints in Case Nos. LA-CO-805-E and LA-CO-806-E are DISMISSED WITH PREJUDICE; and the proposed decision in Case Nos. LA-CO-805-E and LA-CO-806-E issued on August 1, 2000 is VACATED.

Members Amador and Whitehead joined in this Decision.