STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

PART-TIME FACULTY UNITED, AFT, Charging Party, v. VICTOR VALLEY COMMUNITY COLLEGE DISTRICT, Respondent, VICTOR VALLEY COLLEGE FACULTY ASSOCIATION, CTA/NEA Intervenor.	Case No. LA-CE-4349-E PERB Decision No. 1543 July 23, 2003

Appearances: Law Offices of Robert J. Bezemek by Martin Fassler, Attorney, for Part-Time Faculty United, AFT; Liebert Cassidy Whitmore by Mary L. Dowell, Attorney, for Victor Valley Community College District; California Teachers Association by Michael D. Hersch, Attorney, for Victor Valley College Faculty Association, CTA/NEA.

Before Baker, Whitehead and Neima, Members.

DECISION

BAKER, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Victor Valley Community College District (District) and Victor Valley College Faculty Association, CTA/NEA (Intervenor) (VVCFA) to a proposed decision (attached) of an administrative law judge (ALJ), which found that the District violated section 3543.5(a), (b) and (d) of the Educational Employment Relations Act (EERA)[1] by

[1] EERA is codified at Government Code section 3540 et seq. EERA section 3543.5 provides, in relevant part:

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

supporting the VVCFA in preference to the Part-Time Faculty United, AFT (PFU), which was organizing the District's part-time faculty. It is undisputed that the District entered into an agreement with the VVCFA to amend the recognition clause of the collective bargaining agreement (CBA) between the parties to include part-time faculty. The agreement allowed the VVCFA to accrete 350 part-time faculty members into the existing unit of 140 full-time faculty members without any showing of support. Although the VVCFA claims that it had intended for years to bring the part-time faculty into its unit, the VVCFA did not propose amending the recognition clause of its CBA until approximately one month after PFU began its organizing campaign.

Relying on the Board's recent decision in Santa Clarita Community College District (College of the Canyons) (2003) PERB Decision No. 1506 (Santa Clarita), the ALJ found that the District violated EERA when it agreed to amend the recognition clause of the CBA to allow the accretion of the part-time faculty members by the VVCFA when the District was aware that PFU had begun its organizing campaign. In its exceptions, the District raises many of the same arguments considered and rejected by the Board in Santa Clarita. The District's

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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.
>
> (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.

only attempt to distinguish Santa Clarita is its argument that, unlike the full-time faculty union in Santa Clarita, VVCFA "had already done considerable work to prepare to represent the part-time faculty." However, this is an immaterial distinction. The assertion that VVCFA may have intended to represent the part-time faculty at some point in the future does not alter the fact that the District's actions contributed support to one employee organization over another and served to deny employees their right to freely choose their representative. (See Santa Clarita.)

Apart from this argument, neither the District nor VVCFA make any effort to distinguish Santa Clarita. Indeed, any such effort would be futile, since the material facts in this case are identical to those in Santa Clarita. The ALJ's holding that the District violated EERA section 3543.5(a), (b) and (d) must therefore be affirmed. Accordingly, having reviewed the record in this case, including the proposed decision, the District's exceptions, the VVCFA's exceptions, and the PFU's response, the Board finds the proposed decision to be free of prejudicial error and adopts it in full.

ORDER

Based on the foregoing findings of fact, conclusions of law, and the entire record in this case, it is found that the Victor Valley Community College District (District) violated the Educational Employment Relations Act (EERA), Government Code section 3543.5(a), (b), and (d), when it adopted the February 12, 2002, agreement with the Victor Valley College Faculty Association, CTA/NEA (Intervenor) (VVCFA) to include unrepresented part-time faculty in the full-time faculty unit.

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

A. CEASE AND DESIST FROM:

1. Giving any effect or recognition to the February 12, 2002, agreement with VVCFA to expand the full-time faculty bargaining unit to include unrepresented part-time faculty.

2. Contributing support to VVCFA.

3. Encouraging employees to join VVCFA in preference to Part-Time Faculty United, AFT (PFU).

4. Interfering with the right of District employees to participate in the activities of an employee organization of their own choosing.

5. Denying PFU its right to represent employees in their employment relations with the District.

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

1. Within ten (10) workdays following the date this decision is no longer subject to appeal, post at all locations where notices are customarily posted, copies of the notice attached hereto as an Appendix.

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. Continue to report, in writing, to the regional director thereafter as directed. All reports to the regional director shall be concurrently served on VVCFA and PFU.

Members Whitehead and Neima 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-4349-E, Part-Time Faculty United, AFT v. Victor Valley Community College District/Victor Valley College Faculty Association, CTA/NEA (Intervenor), in which all parties had the right to participate, it has been found that the Victor Valley Community College District (District) violated the Educational Employment Relations Act (EERA), Government Code section 3543.5(a), (b) and (d) when it adopted the February 12, 2002, agreement with the Victor Valley College Faculty Association, CTA/NEA (Intervenor) (VVCFA) to include unrepresented part-time faculty in the full-time unit.

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

A. CEASE AND DESIST FROM:

1. Giving any effect or recognition to the February 12, 2002, agreement with VVCFA to expand the full-time faculty bargaining unit to include unrepresented part-time faculty.

2. Contributing support to VVCFA.

3. Encouraging employees to join VVCFA in preference to Part-Time Faculty United, AFT (PFU).

4. Interfering with the right of District employees to participate in the activities of an employee organization of their own choosing.

5. Denying PFU its right to represent employees in their employment relations with the District.

Dated: _____

VICTOR VALLEY 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 WITH ANY OTHER MATERIAL.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

PART-TIME FACULTY UNITED, AFT, Charging Party, v. VICTOR VALLEY COMMUNITY COLLEGE DISTRICT, Respondent, VICTOR VALLEY COLLEGE FACULTY ASSOCIATION, CTA/NEA, Intervenor.	UNFAIR PRACTICE CASE NO. LA-CE-4349-E PROPOSED DECISION (3/6/03)

Appearances: Law Offices of Robert J. Bezemek by Martin J. Fassler, Attorney, for Part-time Faculty United, AFT; Liebert Cassidy Whitmore by Mary L. Dowell, Attorney, for Victor Valley Community College District; California Teachers Association by Michael D. Hersch, Attorney, for Victor Valley College Faculty Association, CTA/NEA.

Before Donn Ginoza, Administrative Law Judge.

PROCEDURAL HISTORY

A union seeking to organize unrepresented part-time community college faculty members requests rescission of an agreement between the community college district and the exclusive representative of full-time faculty to accrete the part-time faculty into the incumbent's bargaining unit, on grounds that the district's action violated its duty of strict neutrality and constituted unlawful assistance to the incumbent.

On November 29, 2001, Part-time Faculty United, AFT (PFU) filed an unfair practice charge against the Victor Valley Community College District (District) alleging that the District denied PFU its right of access to employees for the purpose of organizing support among the faculty. On February 8, 2002, PFU filed an amended charge to add the allegation

that the District unlawfully entered into an agreement with the exclusive representative of the certificated bargaining unit, Victor Valley College Faculty Association, CTA/NEA (VVCFA), to modify the unit to include the part-time faculty. On the same day, PFU also submitted a request for injunctive relief with the Public Employment Relations Board (PERB or Board).[1] On April 9, 2002, VVCFA filed a motion to be joined as a party in the action. On May 3, 2002, PFU filed a second amended charge, withdrawing the allegations concerning the denial of the right of access to employees.

On May 7, 2002, following its investigation of the charge, the general counsel issued a complaint alleging that by entering into the agreement with VVCFA the District encouraged employees to join one employee organization in preference to another, in violation of Educational Employment Relations Act (EERA or Act) section 3543.5(a), (b), and (d).[2] On

[1] On April 17, 2002, following an investigation by the Office of the General Counsel, PERB granted the request. The general counsel then sought and obtained a preliminary injunction in San Bernardino County Superior Court. The court granted the injunction on August 6, 2002. The injunction prevents the District from giving any force or effect to the agreement it has with VVCFA.

[2] Hereafter all statutory references are to the Government Code. The EERA is found at section 3540 et seq. Section 3543.5 provides:

> 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.
>
> . . . . . .

May 23, 2002, the District answered the complaint against it, denying the material allegations of the complaint and asserting a number of affirmative defenses. On May 28, 2002, VVCFA filed its answer to the complaint. On June 13, 2002, VVCFA's motion for joinder was granted.

An informal settlement conference held before PERB on June 4, 2002, failed to resolve the dispute.

A formal hearing was conducted before the undersigned on September 5 and 6, 2002, in Los Angeles. The matter was submitted for decision on February 24, 2003, following submission of the parties' post-hearing briefs.[3]

FINDINGS OF FACT

The District is a "public school employer" within the meaning of section 3540.1(k). PFU and VVCFA are "employee organizations" within the meaning of section 3540.1(d).

The District is a community college district serving approximately 14,000 students. At all times relevant to this dispute, the District employed approximately 140 full-time faculty and 350 part-time faculty members. Prior to the events in dispute here, VVCFA was the "recognized employee organization" (sec. 3540.1(l)) (i.e., exclusive representative) of a bargaining unit composed solely of full-time faculty members.

> (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.

[3] This matter was placed in abeyance on October 25, 2002, pending issuance of the Board's decision in the related matter of Part-time Faculty United, AFT v. Santa Clarita Community College District (Case No. LA-CE-4357-E). It was reactivated on January 9, 2003, following the Board's decision issued on January 8, 2003. On September 17, 2002, PFU filed a request seeking to have the instant case transferred to the Board for issuance of a decision, citing the relatedness of the Santa Clarita case. The Board denied the request.

PFU began to organize part-time faculty members in mid-September 2001. Linda Cushing is a representative of AFT's nationwide organization and spearheads its effort in southern California to organize community college faculty. Cushing, as well as AFT organizers John Berg, Robert Yoshioka, and Barbara Yoshioka, visited the District on approximately 10 occasions from the fall semester through the spring semester. They solicited authorization cards from part-time faculty members, distributed literature about AFT, and answered questions about their organization. During the third week in October, they set up a table with a sign bearing the PFU name and the AFT logo outside the faculty mailroom. At one point the college president walked by the table and questioned PFU's authorization to organize on campus. An attempt by Cushing to meet with the president to discuss the matter was rebuffed. By February 2002, PFU had succeeded in obtaining signatures on authorization cards constituting approximately 23 percent of the part-time faculty. This figure was based on an employee roster provided by the District.

Deborah Blanchard has been active in VVCFA since 1996 and has been an officer since 1998. Blanchard has served as an area representative, vice-president and president of VVCFA. Her term as president began in August 2002. As early as the 1997-1998 school year, Blanchard, then a VVCFA area representative, encouraged part-time faculty to participate in VVCFA meetings. She reported back to part-time faculty members within her area of representation, and advocated for their interests as their representative.

In October 2000, VVCFA distributed a survey questionnaire to part-time faculty soliciting information about issues of concern to part-timers, such as office hours, office space, mileage reimbursement, sick leave, equipment usage, and the like. Out of 350 surveys sent

out, 120 were returned. A summary of the results was distributed to the full-time faculty in December 2000.

In April or May 2001, when Blanchard was VVCFA vice-president, she distributed fliers and authorization cards to all part-time faculty mailboxes. There was no evidence as to how many cards were returned.

Through conferences of the California Teachers Association (CTA) which she had attended, Blanchard learned that unrepresented part-time faculty could be granted representation rights by having a recognized full-time faculty representative agree with the employer to modify the existing unit so as to bring part-time faculty within the represented bargaining unit.

On October 25, 2001, during ongoing negotiations between the District and VVCFA, VVCFA proposed that the recognition clause of the parties' collective agreement be amended to include part-time faculty. An agreement was reached between the parties on this matter in January 2002.

The District's governing board held a regularly scheduled meeting on February 12, 2002. At that meeting, an item on the agenda was approval of the unit modification agreement. Cushing attended and spoke in opposition to the proposal. She advised the board that PFU had obtained authorization cards for 20 percent of the part-time faculty and argued that the unit modification would deny the part-time faculty their right of free choice. Blanchard and another VVCFA supporter spoke in favor of the agreement, claiming it was proper under PERB regulations. The board asked Blanchard if VVCFA would be willing to conduct a poll of support for VVCFA. Blanchard declined. The governing board then voted unanimously to adopt the agreement. There were factual disputes about whether Blanchard disputed PFU's

proof of support, whether she informed the board of VVCFA's part-time faculty survey, and whether the board granted significantly more speaking time to VVCFA than PFU at the meeting. I find it unnecessary to resolve these disputes in order to decide this case.

Attendance at a PFU meeting of part-time faculty immediately after the governing board's approval of the unit modification declined by 50 percent or more (i.e., from 15 to 20 faculty to seven).

ISSUE

Did the District, by entering into the unit modification agreement with VVCFA, encourage employees to join VVCFA in preference to PFU, in violation of section 3543.5(a), (b), or (d)?

CONCLUSIONS OF LAW

During the same time frame of events here, the same PFU team was organizing part-time faculty members at the Santa Clarita Community College District. The undersigned presided over the unfair practice hearing involving claims by PFU of a similar nature and issued a proposed decision on September 11, 2002. The operative facts in that case are for all relevant purposes identical with those here: PFU was organizing in a visible manner on the community college campus and had obtained signed authorization cards from approximately 20 percent of the part-time faculty, when, over its express objection, the community college district's governing board approved an agreement with the exclusive representative of the full-time faculty bargaining unit, a CTA affiliate, to modify the full-time unit so as to include all part-time faculty.

In a decision issued on January 8, 2003, PERB found in favor of PFU and against the community college district, reversing the undersigned's proposed decision. PERB held that the

unit modification agreement violated EERA section 3543.5(d) by unlawfully tending to influence employee choice of membership. (Santa Clarita Community College District (2003) PERB Decision No. 1506 (Santa Clarita).)

Relying on Santa Monica Community College District (1979) PERB Decision No. 103[4] and Long Beach Community College District (1998) PERB Decision No. 1278 (Long Beach),[5] PERB rejected the argument that an employer and exclusive representative, in the face of a visible, ongoing organizational campaign by a competing employee organization, may justify their agreement to accrete part-time faculty positions into the existing full-time unit pursuant to the authority of PERB Regulation 32781,[6] irrespective of the level of support garnered by the competing employee organization. PERB held that to allow "such a result

[4] PERB held in this case that section 3543.5(d) imposes on the employer an "unqualified" duty of "strict neutrality" between competing employee organizations and that the threshold test for a violation of section 3543.5(d) focuses not on the employer's intent but whether its conduct "tends to influence that choice or provide stimulus in one direction or another."

[5] In the later case, PERB, following Santa Monica Community College District, supra, PERB Decision No. 103, held unlawful an employer's granting a rival employee organization the right to make a presentation to employees regarding a campaign to sever a portion of the existing unit, because it constituted encouragement of membership in the rival organization.

[6] The operative language of Regulation 32781 (PERB regulations are codified at Cal. Code Regs, tit. 8, sec. 31001 et seq.), which prescribes rules for unit modification petitions, is the introductory language "[a]bsent agreement of the parties to modify a unit. . . ." This language was added by amendment to the regulation in 1988. The effect of the amendment was to cede authority to the parties to accomplish unit modifications without resort to the formal representation procedures of PERB. Regulation 32781 reads in pertinent part as follows:

> Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board approval of a unit modification may file a petition in accordance with the provisions of this section. [Emphasis added.]

violates basic provisions of EERA itself, which prevail over interpretations of regulations enacted under the Board's jurisdiction pursuant to that statute." (Santa Clarita, supra.) Those enacted regulations, the Board noted, must be "applied in conformity with the legislative grant of jurisdiction under which they were promulgated." (Id.)

PERB rationale was:

> Here, the [Santa Clarita Community College] District went beyond providing assistance to [the College of the Canyons Faculty Association (COCFA)]. It participated with COCFA in the formation of an agreement that it claims required part-time faculty to accept COCFA representation at a time when all parties were on notice that PFU was organizing the part-time faculty. The District used its governing board sessions to entertain COCFA's motion, and used District personnel and time to discuss its terms and to ratify it. The Board finds this case consistent with the analysis in Long Beach (No. 1278). The District's conduct could not be viewed in a manner other than as indicating the District favored COCFA over PFU. The natural consequences of the District's actions would be interference with employee selection of a representative. Such conduct tends to influence the choice by employees between employee organizations. . . . [Santa Clarita, supra; emphasis in original.]

Thus, the purposes and policies of the EERA divined in Santa Monica Community College District, supra, PERB Decision No. 103 and Long Beach, namely, to ensure that the right of employee free choice be respected through the employer's adherence to strict neutrality between competing employee organizations during an organizational campaign, override an employer's claim of justification through PERB Regulation 32781. According to Santa Clarita, PERB Regulation 32781 authorizes unit modifications by agreement (i.e., without sanction of an election) only when there is no competing organizational campaign.

I reject the District's argument that I am not bound by Santa Clarita because that decision has been appealed to the Court of Appeal. PERB administrative law judges are bound to apply PERB precedent until it is reversed.

I also reject the argument of both the District and VVCFA that this case is factually distinguishable from Santa Clarita because VVCFA had engaged in efforts to organize part-time faculty and thus could not be viewed as having "waived" their right to represent the part-time faculty.

The District and VVCFA take this argument in the direction of urging me to find that a unit of both full-time and part-time faculty is the presumptively appropriate unit (i.e., the one desired by VVCFA), and conversely that a unit of only part-time faculty (i.e., the one sought by PFU) is inappropriate. The District and VVCFA argue by negative implication from the holding in Long Beach Community College District (1989) PERB Decision No. 765, where it was found that a unit of part-timers, separate from full-timers was appropriate, notwithstanding the presumption for a single unit, because there the exclusive representative showed no interest in representing part-timers. In contrast in this case, VVCFA claims not to have waived its right to represent, or disclaimed its interest in representing, part-timers. But the appropriateness of the part-time faculty unit is not before me because the issue was not litigated in this case. I decline to make a unit appropriateness determination based on this limited record.

Further, VVCFA argues, it had support of a majority of the part-timers and the District legitimately viewed VVCFA as representing a majority of "the bargaining unit in question." VVCFA cites no evidence to support this claim, and I find nothing in the record to support it. Therefore, this argument provides no defense to the complaint.

Accordingly, I find that the District violated section 3543.5(d) by entertaining and adopting the proposed agreement with VVCFA to expand the full-time faculty unit to include part-time faculty.

In addition, I find that this conduct interfered with the part-time employees' right to participate in activities of an employee organization of their own choosing, in violation of section 3543.5(a), and denied PFU its right as an employee organization to represent public school employees, in violation of section 3543.5(b). In Santa Clarita, supra, PERB concluded that the unit modification agreement required part-time faculty to accept the incumbent's representation and ordered that the District cease and desist from encouraging employees to join one employee organization in preference to another.[7] This necessarily involves interference with the right of participation in an employee organization of the employee's own choosing. By the same logic, and the fact that the Board ordered the District to cease and desist from contributing support to VVCFA, the challenging union's inchoate right to represent the affected employees is abridged and denied.

REMEDY

Section 3541.5(c) grants PERB

> 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.

It has been determined in this case that the District violated its obligation of strict neutrality by agreeing with VVCFA to modify the unit of full-time faculty so as to include part-time faculty, in violation of section 3543.5(d). The District will be ordered to return to the status quo ante which existed prior to the adoption of the agreement. Thus, it is ordered to

[7] The Board declined to find (a) and (b) violations because PFU did not except to the administrative law judge's rejection of those allegations.

rescind the February 12, 2002, resolution adopting the agreement with VVCFA to expand the full-time faculty bargaining unit to include part-time faculty.

PFU requests that I order the District provide it, upon request, with home addresses and home telephone numbers. PFU claims this is necessary to eliminate a competitive disadvantage in relation to VVCFA, which it is asserted has this information already. I reject this request. There was no evidence taken that PFU has requested home addresses and telephone numbers, that the District has refused to provide such information, or that VVCFA has the information. (See Santa Monica Community College District, supra, PERB Decision No. 103 [non-exclusive representative's right to information].) I find that this issue is not before me and that it is not ripe for adjudication in any event.

As a result of the above-described violation, the District has also interfered with the right of employees to participate in an employee organization of their own choosing in violation of section 3543.5(a) and denied PFU its right to represent employees in their employment relations with a public agency in violation of section 3543.5(b). The appropriate remedy is to cease and desist from such unlawful conduct. (Rio Hondo Community College District (1983) PERB Decision No. 292.)

Finally, it is the ordinary remedy in PERB cases that the party found to have committed an unfair practice be ordered to post a notice incorporating the terms of the order. Such an order ordinarily is granted to provide employees with a notice, signed by an authorized agent that the offending party has acted unlawfully, is being required to cease and desist from its unlawful activity, and will comply with the order. Thus, it is appropriate to order the District to post a notice incorporating the terms of the order herein at its campuses, classrooms, and other facilities where part-time faculty work and teach classes. Posting of such notice

effectuates the purposes of the EERA that employees be informed of the resolution of this matter and the District's readiness to comply with the ordered remedy. (Davis Unified School District (1980) PERB Decision No. 116; see also Placerville Union School District (1978) PERB Decision No. 69.)

In the latter regard, PFU requests that I order that the District send a copy of the formal "Notice" described above to the home address of every part-time faculty member, citing the special circumstances of part-time employment and the unlikely possibility that part-time faculty will view normal bulletin board postings. I do not agree that in the absence of such a special remedial order "a significant number of employees will undoubtedly continue to believe that the VVCFA is their exclusive bargaining agent," as asserted by PFU. If part-time faculty contact with the District is as intermittent as PFU argues, I cannot conclude that all part-time members even know that they are currently exclusively represented by VVCFA. PFU's basis for the special remedial order is too speculative in my opinion. Further, I note that in Santa Clarita, PERB did not order the type of posting requested by PFU here. However, to the extent that PFU asserts that community college work sites are "scattered and varied," and include "off-campus centers" and other "public schools," the posting order contained herein should be interpreted as including all such sites within the meaning of "all locations where notices to employees are customarily posted."

PROPOSED ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it has been found that the Victor Valley Community College District (District) violated the Educational Employment Relations Act (Act), Government Code section 3543.5(a), (b), and (d), when it adopted the February 12, 2002, agreement with the Victor Valley College

Faculty Association (VVCFA) to include unrepresented part-time faculty in the full-time faculty unit.

Pursuant to section 3541.5, subdivision (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. Enforcing the February 12, 2002, agreement with VVCFA to expand the full-time faculty bargaining unit to include unrepresented part-time faculty when the District is on notice that part-time faculty are being organized by another employee organization;

2. Contributing support to VVCFA;

3. Encouraging employees to join VVCFA in preference to Part-time Faculty United (PFU);

4. Interfering with the right of District employees to participate in the activities of an employee organization of their own choosing; and

5. Denying PFU its right to represent employees in their employment relations with the District.

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

1. Within ten (10) workdays of service of a final decision in this matter, rescind the February 12, 2002, resolution adopting the agreement with VVCFA to include unrepresented part-time faculty in the full-time faculty unit.

2. Within seven (7) workdays of service of a final decision in this matter, post at all locations where notices to employees are customarily posted, copies of the Notice attached hereto as an appendix. The Notice must be signed by an authorized agent for 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 calendar days. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered by an other material.

3. Within thirty (30) workdays of service of a final decision in this matter, notify the Sacramento Regional Director of the Public Employment Relations Board, in writing, of the steps the employer has taken to comply with the terms of this Order. Continue to report in writing to the Regional Director periodically thereafter as directed. All reports to the Regional Director shall be served concurrently on the Charging Party.

Pursuant to PERB Regulation 32305, this Proposed Decision and Order shall become final unless a party files a statement of exceptions with the PERB itself within 20 days of service of this Decision. The Board's address is:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95814-4174
FAX: (916) 327-7960

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. (PERB Regulation 32300.)

A document is considered "filed" when actually received before the close of business (5 p.m.) on the last day set for filing or when mailed by certified or Express United States mail, as shown on the postal receipt or postmark, or delivered to a common carrier promising overnight delivery, as shown on the carrier's receipt, not later than the last day set for filing. (PERB Regulations 32135(a) and 32130.)

A document is also considered "filed" when received by facsimile transmission before the close of business on the last day for filing together with a Facsimile Transmission Cover Sheet which meets the requirements of PERB Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (PERB Regulation 32135(b), (c) and (d); see also PERB Regulations 32090 and 32130.)

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 PERB Regulations 32300, 32305, 32140, and 32135(c).)

Donn Ginoza
Administrative Law Judge