

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



MAURICE WEBB,

Charging Party,

v.

TRUSTEES OF THE CALIFORNIA STATE
UNIVERSITY (SAN BERNARDINO),

Respondent.

Case No. LA-CE-780-H

Request for Reconsideration
PERB Decision No. 1609-H

PERB Decision No. 1609a-H

June 30, 2004

Appearance: Maurice Webb, on his own behalf.

Before Duncan, Chairman; Whitehead and Neima, Members.

DECISION

DUNCAN, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by Maurice Webb (Webb) of the Board's decision in Trustees of the California State University (San Bernardino) (2004) PERB Decision No. 1609-H (CSU, San Bernardino). The unfair practice charge had alleged that Webb was retaliated against by the administration at the California State University (San Bernardino) (CSU) for filing a grievance and that he was denied a fair grievance hearing. In CSU, San Bernardino, the Board found that Webb did not state a prima facie case of an unfair practice charge and dismissed the charge.

After review of Webb's request for reconsideration, the Board denies the request as set forth below.

BACKGROUND

In requesting reconsideration, Webb states his reason for making the request is based on his belief that his case was dismissed prematurely without sufficient investigation of the evidence.

He then refers to evidence that was already reviewed as part of his original case. He makes reference to the affirmative defense of the general counsel for CSU setting forth Webb's failure to demonstrate a nexus between protected activity and any adverse action. He then refers to specific pages of exhibits he submitted on appeal related to the enrollment policies and his allegations that there was a forgery in his personnel records. He then requests a remedy that includes punitive damages.

DISCUSSION

The grounds for reconsideration are set forth in PERB Regulation 32410¹ as:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. 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. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be

¹PERB regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

reconsidered; and (5) impacts or alters the decision of the previously decided case.

Webb seeks reconsideration based on a claim that his previously submitted evidence was “dismissed without sufficient investigation.” No additional evidence and no declaration were submitted. Webb simply reargues matters previously presented and rejected by the Board in CSU, San Bernardino.

In reviewing requests for reconsideration, the Board has strictly applied the grounds included in the regulation. This is to avoid the use of the reconsideration process to reargue or relitigate issues that have been decided. (Redwoods Community College District (1994) PERB Decision No. 1047a.)

In numerous request for reconsideration cases, the Board has simply declined to reconsider matters previously rejected in the underlying decision. (California State Employees Association, Local 1000 (Janowicz) (1994) PERB Decision No. 1043a-S.)

Webb’s request for reconsideration does not rest on the limited statutory grounds required. We therefore, decline his request for reconsideration.

ORDER

Maurice Webb’s request for reconsideration of the Board’s decision in Trustees of the California State University (San Bernardino) (2004) PERB Decision No. 1609-H is hereby DENIED.

Members Whitehead and Neima joined in this Decision.