

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



PATRICIA O'NEIL, ERNEST SALGADO, EMIL
BARHAM,

Charging Parties,

v.

SANTA ANA EDUCATORS ASSOCIATION,

Respondent.

Case No. LA-CO- 1170-E

PERB Decision No. 1776

September 1, 2005

Appearances: Patricia O'Neil, Ernest Salgado and Emil Barham, on their own behalf; California Teachers Association by Joseph R. Colton, Attorney, for Santa Ana Educators Association.

Before Whitehead, Shek and Neuwald, Members.

DECISION AND ORDER

NEUWALD, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal of a dismissal by a Board agent of an unfair practice charge. Patricia O'Neil, Ernest Salgado and Emil Barham (Charging Parties) allege that the Santa Ana Educators Association violated the Educational Employment Relations Act (EERA)¹ section 3543.6(b) by denying them an opportunity to participate in union activity and failing to meet its duty of fair representation.

On August 4, 2005, the PERB General Counsel requested that this case be remanded for further investigation. With that request, he noted that the Charging Parties assert that they

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

did not receive a warning letter prior to the case being dismissed as required under PERB Regulation 32620(d)².

The Board has adopted a procedure whereby the General Counsel reviews cases dismissed by Board agents. As explained in similar requests from the General Counsel (California School Employees Association and its Chapter #302 (Lauer) (1990) PERB Decision No. 809; California State Employees' Association (Morrow) (1986) PERB Decision No. 568-S) the purpose of the review is to minimize, and hopefully reduce appellate litigation prompted by inadequacies in the processing of unfair practice charges. The request for remand reflects the General Counsel's reasoned conclusion that further investigation would serve that purpose. We conclude that the request for remand be granted.

Therefore, upon review of the entire record, the Board ORDERS that Case No. LA-CO-1170-E be REMANDED to the General Counsel for further investigatory proceedings.

Members Whitehead and Shek joined in this Decision.

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