

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



AFSCME LOCAL 146,

Charging Party,

v.

CARMICHAEL RECREATION & PARK
DISTRICT,

Respondent.

Case Nos. SA-CE-370-M
SA-CE-379-M

Request for Reconsideration
PERB Decision No. 1953-M

PERB Decision No. 1953a-M

June 27, 2008

Appearance: Penny Kelley, on her own behalf.

Before Neuwald, Chair; McKeag and Rystrom, Members.

DECISION

NEUWALD, Chair: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Penny Kelley (Kelley) of the Board's decision in Carmichael Recreation & Park District (2008) PERB Decision No. 1953-M (Carmichael). In Carmichael, the Board dismissed AFSCME Local 146's (AFSCME) charges of interference and retaliation and found that the Carmichael Recreation & Park District did not deny AFSCME information that was necessary and relevant to its representational duties.

The Board reviewed the record in this matter, including the request for reconsideration, and finds that the request should be denied.

DISCUSSION

Kelley requests the Board to reconsider its decision. PERB Regulation 32410(a)¹ governs reconsideration of Board decisions and states:

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

(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. . . . 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. . . . [Emphasis added.]

In John Swett Unified School District (1981) PERB Decision No. 188, the Board declined to review a submission labeled “exceptions” to the hearing officer’s decision from the attorney representative because the association, and not John O’Dwyer, was the charging party. (See also Unit Determination for Skilled Crafts Employees of the University of California (1983) PERB Decision No. 242a-H.) Kelley is not a party to this unfair practice charge. Rather, she is the subject of one of the allegations in the charge. The charging party is AFSCME. Pursuant to PERB Regulation 32410, Kelley may not file a request for reconsideration because she is not “any party.” As such, Kelley’s request for reconsideration is denied.

ORDER

In accordance with the foregoing discussion, the Public Employment Relations Board hereby denies Penny Kelley’s request for reconsideration in Carmichael Recreation & Park District (2008) PERB Decision No. 1953-M.

Members McKeag and Rystrom joined in this Decision.