

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



SERVICE EMPLOYEES INTERNATIONAL  
UNION LOCAL 521,

Charging Party,

v.

FRESNO COUNTY SUPERIOR COURT,

Respondent.

Case No. SA-CE-14-C

PERB Decision No. 2517a-C

April 12, 2019

Appearances: Weinberg, Roger & Rosenfeld by Sean D. Graham, Attorney, for Service Employees International Union Local 521; Wiley, Price & Radulovich by Joseph E. Wiley, Attorney, for Fresno County Superior Court.

Before Banks, Shiners, Krantz, and Paulson, Members.

DECISION

This case is before the Public Employment Relations Board (PERB or Board) after the Court of Appeal for the Fifth Appellate District issued its opinion and order in *Superior Court of Fresno County v. Public Employment Relations Board* (2018) 30 Cal.App.5th 158 (*Superior Court*). Pursuant to the Court of Appeal's order, as discussed below, we vacate in part *Fresno County Superior Court* (2017) PERB Decision No. 2517-C, and issue a modified remedial order in this matter.

In *Fresno County Superior Court, supra*, PERB Decision No. 2517-C, we concluded that the Fresno County Superior Court (Court) violated the Trial Court Employment Protection and Governance Act (Trial Court Act)<sup>1</sup> and PERB Regulations.<sup>2</sup> Among other remedies, we

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<sup>1</sup> The Trial Court Act is codified at Government Code section 71600 et seq.

ordered the Court to rescind those portions of sections 1.11 and 17.3 of its Personnel Manual to the extent they: (1) categorically prohibit employees from wearing union regalia in the courthouse; (2) prohibit the distribution of union literature during nonworking time in nonworking areas; (3) categorically ban the display of union writings and images in all work areas visible to the public; and (4) prohibit solicitation among employees during “working hours” without regard to meal and rest breaks or other non-duty periods.

In its opinion and order, the Court of Appeal vacated those parts of *Fresno County Superior Court, supra*, PERB Decision No. 2517-C, that invalidated portions of Personnel Rule 1.11 addressing the wearing or display of images and writings on clothing, as well as the first (solicitation) and fourth (display) paragraphs of Personnel Rule 17.3.1. The opinion left unchanged that part of our decision and order invalidating the third paragraph (distribution in working areas) of Personnel Rule 17.3.1. (*Superior Court, supra*, 30 Cal.App.5th at p. 201.)

Accepting the Fifth District’s opinion as law of the case, we hereby VACATE the discussion and related conclusions of law at pages 21 through 26, and 36 through 38, of *Fresno County Superior Court, supra*, PERB Decision No. 2517-C, as well as the corresponding discussion and conclusions at pages 17 through 23, and 25 through 26 of the adopted proposed decision. We also vacate our original order and issue the following modified order in this matter.

Pursuant to section 71639.1 of the Government Code, it is ORDERED that the Court and its representatives shall:

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<sup>2</sup> PERB Regulations are codified at California Code of Regulation, title 8, section 31001 et seq.

A. CEASE AND DESIST FROM:

1. Interfering with employees' right to communicate with each other in the work place.

2. Denying SEIU the right to represent Court employees.

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

1. Rescind those portions of section 17.3 of the Personnel Manual that prohibit the distribution of union literature during nonworking time in nonworking areas.

2. Within ten (10) workdays after service of this decision, post at all work locations where notices to employees of the Court are customarily posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Court, indicating that it will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. In addition to physical posting of paper notices, the Notice shall be posted by electronic message, intranet, internet site, and other electronic means customarily used by the Court to communicate with its employees in the bargaining unit represented by SEIU. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material.

3. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of PERB, or the General Counsel's designee. The Court shall provide reports, in writing, as directed by the General Counsel or his/her designee. All reports regarding compliance with this Order shall be concurrently served on SEIU.

PER CURIAM

