

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



STATE EMPLOYEES TRADES COUNCIL  
UNITED,

Charging Party,

v.

REGENTS OF THE UNIVERSITY OF  
CALIFORNIA (LOS ANGELES),

Respondent.

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TEAMSTERS LOCAL 2010,

Interested Party.

Case No. LA-CE-1215-H

PERB Decision No. 2526-H

May 18, 2017

Appearances: Beeson, Tayer & Bodine by Susan K. Garea, Attorney, for State Employees Trades Council United and Teamsters Local 2010; Paul, Plevin, Sullivan & Connaughton by Sandra L. McDonough, Attorney, for Regents of the University of California (Los Angeles).

Before Gregersen, Chair; Banks and Winslow, Members.

DECISION

BANKS, Member: This case comes before the Public Employment Relations Board (PERB or Board) on exceptions filed by the State Employees Trades Council United (SETC) to the proposed decision of a PERB administrative law judge (ALJ), which dismissed the complaint and SETC's underlying unfair practice charge against the Regents of the University of California (University). The PERB complaint alleged that the University had violated the Higher Education Employer-Employee Relations Act (HEERA)<sup>1</sup> by unilaterally changing the

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<sup>1</sup> HEERA is codified at Government Code section 3565 et seq. All statutory references are to the Government Code unless otherwise indicated.

terms of a negotiated “me too” policy and by denying skilled trades employees a collectively-bargained salary increase for retaliatory reasons.

The PERB Office of the General Counsel issued a complaint on August 21, 2015, and on September 10, 2015, the University answered the complaint by denying the material allegations and asserting various affirmative defenses.

On January 11, 2016, Teamsters Local 2010 (Local 2010) filed a motion to substitute itself as the charging party in the case or, in the alternative, to be joined as an interested party. In support of the motion, Local 2010 asserted that, on October 23, 2015, SETC had formally disclaimed interest in the unit at issue in the case and that, on October 30, 2015, Local 2010 had petitioned to represent the unit. Local 2010’s filing included a statement of support by SETC’s counsel, Fred Quiel. The University opposed the motion.

After further proceedings, on February 17, 2016, the ALJ granted Local 2010’s requests to join the case as an interested party and its request for official notice of PERB’s files in Case No. SF-RR-969-H, concerning Local 2010’s petition for the unit, but denied a motion to amend the complaint to substitute references to “SETC” in the PERB complaint with “Local 2010.”

After further proceedings concerning pre-hearing motions, the ALJ convened a formal hearing on March 28, 2016. SETC initially appeared by telephone and, over the University’s objection, SETC’s representative filed a notice of appearance designating counsel for Local 2010, Susan K. Garea (Garea), as its representative for purposes of this case. The hearing resumed on March 29, 2016 and, after further objections from the University and SETC’s filing of a second notice of appearance form again designating Garea as its representative in this case, SETC and Local 2010 (collectively, Unions) presented a single case

in chief, which completed on March 29, 2016. The University moved to have the case dismissed for failure to establish a prima facie case for any HEERA violation, which the ALJ took under submission, before presenting its own case in chief. The hearing concluded on March 30, 2016 and, with the submission of closing briefs on July 6, 2016, the record was closed and the matter was considered submitted for decision.

On September 29, 2016, the ALJ issued his proposed decision, in which he ruled on several issues, including SETC's status as the charging party and the propriety of Local 2010's participation as an interested party and whether the case was subject to deferral, before addressing the merits and concluding that both the unilateral change and discrimination allegations in the complaint should be dismissed for failure of proof. He also denied the University's motion for sanctions against SETC for any delay caused by SETC initially failing to appear at the hearing on March 28, 2016.

After requesting and receiving an extension of time, on November 2, 2016, the Unions filed their statement of exceptions and supporting brief. After also requesting and receiving an extension of time, on December 12, 2016, the University filed its response to the Unions' exceptions and its own brief in support of that response. On January 4, 2017, the University also requested oral argument before the Board.

On April 10, 2017, while the matter was pending before the Board, the parties notified PERB that they had reached a settlement agreement and submitted a stipulation requesting that the Unions' exceptions be withdrawn and that the complaint and underlying unfair practice charge be dismissed with prejudice as part of a global settlement involving negotiations for a successor Memorandum of Understanding.

Under its broad powers to “investigate unfair practice charges or alleged violations of [HEERA], and to take any action and make any determinations in respect of these charges or alleged violations as the board deems necessary to effectuate the policies of [HEERA],” and to “take any other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of [HEERA],” the Board has discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (HEERA, § 3563, subds. (h), (m); *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S, p. 5.) When an appeal pending before the Board involves a matter of continuing public interest and a precedential ruling on the matter will be instructive to similarly-situated parties, the Board has exercised its discretion by denying a request for withdrawal, in the interest of justice. (*Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380, p. 2; *Oakland Unified School District* (1988) PERB Order No. Ad-171a, p. 2; *ABC Unified School District* (1991) PERB Decision No. 831b, p. 2.)

After carefully reviewing the parties’ stipulation and settlement agreement, the Board finds withdrawal of the Unions’ exceptions and dismissal of this case to be consistent with the purposes of HEERA to promote harmonious and cooperative labor relations between the State’s public institutions of higher education and their employees. Accordingly, the parties’ stipulation and requests for withdrawal and dismissal shall be granted, and the proposed decision shall become final and binding on the parties only but not precedential. (PERB Regs. 32215, 32305, subd. (a).)<sup>2</sup>

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

ORDER

The parties' stipulation and the request by Charging Party State Employees Trades Council United and Interested Party Teamsters Local 2010 to withdraw their exceptions to the proposed decision and for dismissal with prejudice of the complaint and unfair practice charge in Case No. LA-CE-1215-H are hereby GRANTED. The complaint and charge are dismissed with prejudice and the proposed decision issued on September 29, 2016 is hereby deemed final and binding as to the parties in this case only.

Chair Gregersen and Member Winslow joined in this decision.