

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



ANGELA MARIE PORTER et al.,

Charging Parties,

v.

LYNWOOD TEACHERS ASSOCIATION,

Respondent.

Case No. LA-CO-1623-E

PERB Decision No. 2542

November 9, 2017

Appearances: Angela Porter, Representative, on behalf of Angela Marie Porter et al.; Becker Law Group by Todd A. Fuson, Attorney, for Lynwood Teachers Association.

Before Gregersen, Chair; Banks and Winslow, Members.

DECISION

WINSLOW, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Lynwood Teachers Association (Association) to a proposed decision of a PERB administrative law judge (ALJ). The complaint alleged that the Association violated its duty of fair representation by failing to prosecute a grievance on behalf of Angela Marie Porter et al.¹ (collectively, Charging Parties) in violation of the Educational Employment Relations Act (EERA) section 3548.²

A formal hearing was held on October 26, 2015, and the matter was submitted for decision by the ALJ on December 4, 2015. The ALJ issued his proposed decision on February 18, 2016, concluding that the Association had breached its duty of fair representation

¹ In addition to Angela Marie Porter, the Charging Parties were Esmeralda Diaz, Adriana Fernandez, Maria Cid, Laura Gonzalez, Maria Ledezma, Francisca Alvarado, Pamela Finley and Maricela Zamorano. The complaint as to the latter two individuals was dismissed due to their failure to appear at the hearing without good cause.

² EERA is codified at Government Code section 3540, et seq.

by failing to invoke arbitration for the Charging Parties' grievance over unpaid work as pre-kindergarten teachers. To remedy this violation the ALJ ordered the Association to, among other things, pay to the Charging Parties back pay (with interest of 7 percent per annum) totaling an hour of pay for every day each person worked eight hours during the period between January 10, 2014, and a date the Association files a grievance on Charging Parties' behalf challenging their eight-hour work day.

The Association filed exceptions to the proposed decision on March 21, 2016, and Angela Porter responded on behalf of herself and the other Charging Parties on April 14, 2016.

On October 17, 2017, the parties notified the Board that they had reached a settlement of their dispute. Charging Parties requested to withdraw their unfair practice charge with prejudice and the Association requested to withdraw its exceptions to the proposed decision.

The Board has the discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (PERB Reg. 32320(a)(2) ["The Board itself may: . . . take such other action as it considers proper."]; *Turlock Irrigation District* (2015) PERB Decision No. 2413-M; *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S; *Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380.)

The Board has a longstanding policy favoring voluntary settlement of disputes. (*Dry Creek Joint Elementary School District* (1980) PERB Order No. Ad-81.) Based on the Board's review of the parties' request, the Board finds the request to be in the best interest of the parties and consistent with the purposes of EERA to promote harmonious labor relations.

ORDER

The request by the Lynwood Teachers Association (Association) and the Charging Parties, Angela Marie Porter et al., in Case No. LA-CO-1623-E is hereby GRANTED. The Association's exceptions to the proposed decision are deemed withdrawn. The unfair practice charge is DISMISSED WITH PREJUDICE. The complaint is DISMISSED and the proposed decision is hereby VACATED.

Chair Gregersen and Member Banks joined in this Decision.