

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



SAN JOAQUIN COUNTY CORRECTIONAL
OFFICERS ASSOCIATION,

Charging Party,

v.

COUNTY OF SAN JOAQUIN,

Respondent.

Case No. SA-CE-823-M

PERB Decision No. 2564-M

May 31, 2018

Appearances: Goyette & Associates by Paul Goyette, Attorney, for San Joaquin County Correctional Officers Association; Renne, Sloan, Holtzman, Sakai by Erich W. Shiners, Attorney, for County of San Joaquin.

Before Gregersen, Chair; Banks and Winslow, Members.

DECISION

BANKS, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions by the San Joaquin County Correctional Officers Association (Association) to the proposed decision of a PERB Administrative Law Judge (ALJ) dismissing the complaint and the Association's unfair practice charge against the County of San Joaquin (County). The complaint alleged that during negotiations for a successor Memorandum of Understanding between February 2012 and January 2013, the County engaged in various unfair practices in violation of the Meyers-Milias-Brown Act¹ (MMBA) and PERB Regulations,² including bad faith/surface bargaining, failure and/or refusal to provide information necessary

¹ The MMBA is codified at Government Code section 3500 et seq. Unless otherwise indicated, all statutory references are to the Government Code.

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

for contract negotiations, and discrimination against and/or interference with the protected rights of the Association and bargaining unit employees. After a formal hearing and briefing, the ALJ dismissed all allegations in the complaint.

The Association filed a timely statement of exceptions to the proposed decision and a supporting brief.³ The County filed a response to the Association's exceptions, urging the Board to affirm the dismissal, but filed no exceptions or cross-exceptions to the proposed decision.

On May 1, 2018, while its exceptions were pending before the Board, the Association notified the Board that the parties had reached a global settlement of all disputes and requested that it be permitted to withdraw its exceptions and that the complaint be dismissed with prejudice.

Under its broad powers to “investigate unfair practice charges or alleged violations of [the MMBA], 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 [the MMBA],” and to “take any other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of [the MMBA],” the Board has discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (§ 3541.3, subs. (i) and (n); § 3509, subd. (a); *State of California (Department of Personnel*

³ The Association's exceptions concern the dismissal of the allegation that the County discriminated against Correctional Officers by unilaterally imposing economic concessions that were more onerous than those demanded of or imposed on employees in the other 13 bargaining units which were then in negotiations with the County. Primarily at issue is whether the ALJ properly applied *Campbell Municipal Employees Association v. City of Campbell* (1982) 131 Cal.App.3d 416 and similar authorities prohibiting discrimination against employees for protected activity. The Association has also excepted to several findings and conclusions underlying the ALJ's dismissal of the failure/refusal to provide information allegation.

Administration) (2010) PERB Decision No. 2152-S, p. 5.) When an appeal or exceptions pending before the Board involves a matter of continuing public interest and a precedential ruling on the matter will be instructive to all parties similarly situated, 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; *ABC Unified School District* (1991) PERB Decision No. 831b, p. 4. (*ABC USD*).

The Board finds withdrawal of the Association's exceptions to the proposed decision and dismissal of the complaint to be consistent with the MMBA's purpose of promoting harmonious labor relations. (See *ABC USD, supra*, PERB Decision No. 831b, p. 5.) While the allegations included in the complaint and addressed by the proposed decision raise significant issues with a continuing public interest, in light of the global settlement of the parties' dispute, it is unnecessary for the Board to issue a precedential decision. Accordingly, the Board grants the Association's request to withdraw its exceptions and to dismiss the complaint with prejudice. The proposed decision shall be final and binding as to the parties in this case, but without precedent. (PERB Reg. 32215; *County of Fresno* (2014) PERB Decision No. 2352-M, pp. 3-5.)

ORDER

The request by the San Joaquin County Correctional Officers Association to withdraw its exceptions to the proposed decision and to dismiss the complaint in unfair practice Case No. SA-CE-823-M with prejudice is hereby GRANTED. The proposed decision and order shall be final and binding on the parties to this case only.

Chair Gregersen and Member Winslow joined in this Decision.