

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



ACADEMIC PROFESSIONALS OF
CALIFORNIA,

Charging Party,

v.

TRUSTEES OF THE CALIFORNIA STATE
UNIVERSITY,

Respondent.

Case No. LA-CE-792-H

Administrative Appeal

PERB Order No. Ad-350-H

December 9, 2005

Appearances: Rothner, Segall & Greenstone by Bernhard Rohrbacher, Attorney, for Academic Professionals of California; Office of the General Counsel by Marc D. Mootchnik, University Counsel, for Trustees of the California State University.

Before Duncan, Chairman; Shek and Neuwald, Members.

DECISION

DUNCAN, Chairman: This case comes before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Trustees of the California State University (CSU) to a ruling by a Board agent that it failed to comply with the posting requirements of an order accompanying an administrative law judge's proposed decision,¹ the substance of which was not challenged. The Academic Professionals of California (APC) filed a response to the exceptions.

On November 8, 2005, CSU and APC jointly informed the Board that they had met and resolved the matter and requested that PERB consider the case closed.

After reviewing CSU and APC's joint request, as well as the entire record in this matter, the Board finds that granting the request is in the best interests of the parties and is

¹Trustees of the California State University (APC) (2005) PERB Decision No. HO-U-873-H.

consistent with the purposes of the Higher Education Employer-Employee Relations Act (HEERA).²

DISCUSSION

Sometimes after a case has reached the Board itself, the parties are still working on resolving issues and are able to reach agreement. When this occurs, there is a request from the parties to withdraw the case from the Board level. The Board reviews each request of this nature to determine whether granting it would be consistent with the governing statute and in the best interests of the parties. (Orange Unified School District (2001) PERB Decision No. 1437.)

In cases where exceptions have been filed, the Board is guided by PERB Regulation 32320,³ which provides, in pertinent part:

- (a) The Board itself may:
 - (1) Issue a decision based upon the record of hearing, or
 - (2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

It is clear that the Board has the discretion to grant or deny the request and to allow the withdrawal of a charge and complaint, and to vacate a proposed decision. (ABC Unified School District (1991) PERB Decision No. 831 b.)

In this case, the parties have resolved the dispute related to compliance. The dispute did not address the substance of the ALJ's proposed decision and that decision stands. The Board concludes it effectuates the purposes of HEERA to permit withdrawal of the exceptions related to compliance in this case.

²HEERA is codified at Government Code section 3560, et seq.

³PERB regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

ORDER

The request by the Trustees of the California State University and the Academic Professionals of California to withdraw the exceptions filed related to compliance in Trustees of the California State University (APC) (2005) PERB Decision No. HO-U-873-H is hereby GRANTED. It is ORDERED that the appeal is DISMISSED WITH PREJUDICE.

Members Shek and Neuwald joined in this Decision.