

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



NEWARK TEACHERS ASSOCIATION,
CTA/NEA,

Charging Party,

v.

NEWARK UNIFIED SCHOOL DISTRICT,

Respondent.

NEWARK UNIFIED SCHOOL DISTRICT,

Charging Party,

v.

NEWARK TEACHERS ASSOCIATION,
CTA/NEA,

Respondent.

Case Nos. SF-CE-2377-E
SF-CE-2380-E

Administrative Appeal

PERB Order No. Ad-354

June 23, 2006

Case No. SF-CO-640-E

Appearance: California Teachers Association by Ramon E. Romero, Attorney, for Newark Teachers Association, CTA/NEA.

Before Duncan, Chairman; McKeag and Neuwald, Members.

DECISION

DUNCAN, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the Newark Teachers Association, CTA/NEA (Association) from the Appeals Assistant's administrative determination that its response to the Newark Unified School District's (District) exceptions to the administrative law judge's proposed decision was untimely filed.

Under PERB Regulation 32635(c),¹ the District's response was due to be filed at the PERB headquarters office no later than June 27, 2005.² However, the response was mailed to the PERB San Francisco regional office in Oakland instead of to the headquarters office in Sacramento. The response was forwarded to the headquarters office and did not arrive until July 8, 2005. The Association was notified by the Appeals Assistant in a letter of July 11, 2005, that the response had been received at the headquarters office on July 8, 2005, it was 11 days late and untimely.

Citing Allan Hancock Joint Community College District (2004) PERB Order No. Ad-340 (Allan Hancock) and North Orange County Regional Occupational Program (1990) PERB Decision No. 807 (North Orange County), in addition to other cases, the Association appealed the administrative determination and requested that the Board find good cause to accept the late-filed response.

Both the Allan Hancock and North Orange County cases involved almost identical situations to this situation. In both those cases a filing was timely except that it was sent to a regional office instead of to the headquarters office. As the Association has been diligent in making its request and provided sworn declarations addressing the circumstances causing the clerical error that resulted in the filing at the incorrect office and the facts closely mirror the two cases noted above, the Board grants the Association's appeal and accepts the late-filed response.

¹PERB regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

²This includes five (5) extra days pursuant to PERB Regulation 32130(c).

ORDER

The Newark Teachers Association, CTA/NEA's request that the Board accept its late-filed response to exceptions in Case Nos. SF-CE-2377-E, SF-CE-2380-E and SF-CO-640-E is hereby GRANTED.

Members McKeag and Neuwald joined in this Decision.