

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



VAL VERDE SCHOOL DISTRICT,

Charging Party,

v.

CALIFORNIA SCHOOL EMPLOYEES
ASSOCIATION AND ITS VAL VERDE
CHAPTER 567,

Respondent.

Case No. LA-CO-80-78/79

VAL VERDE SCHOOL DISTRICT,

Charging Party,

v.

VAL VERDE DISTRICT TEACHERS
ASSOCIATION,

Respondent.

Case No. LA-CO-81-78/79

PERB Order No. IR-9

Administrative Appeal

July 18, 1979

CALIFORNIA SCHOOL EMPLOYEES
ASSOCIATION AND ITS VAL VERDE
CHAPTER 567,

Charging Party,

v.

VAL VERDE SCHOOL DISTRICT.

Employer.

Case No. LA-CE-468-78/79
LA-CE-471-78/79

VAL VERDE DISTRICT TEACHERS
ASSOCIATION,

Employee Organization

v.

VAL VERDE SCHOOL DISTRICT,

Employer

Case No. LA-CE-470-78/79

Appearances; Charles D. Field, Keith B. Bardellini, Attorneys
(Best, Best & Krieger) for Val Verde School District;

Mary Mocine, Attorney for California School Employees Association and its Affiliated Chapter #567; Eugene Hugenin, Attorney for Val Verde District Teachers Association.

Before Gluck, Chairperson, Gonzales and Moore, Members.

DECISION

On May 3, 1979, the Val Verde School District (hereafter District) filed unfair practice charges against the California School Employees Association and its Val Verde Chapter 567 (hereafter CSEA) and the Val Verde District Teachers Association (hereafter VVDTA) , alleging in each case that the respondent, the exclusive representative of classified and certificated employees respectively, was conducting a work stoppage prior to the completion of impasse procedures specified in sections 3548 through 3548.3 and in violation of section 3543.6(b) and (d) of the Educational Employment Relations Act (hereafter EERA).¹ The charges were accompanied by requests that the Public Employment Relations Board (hereafter PERB or Board) seek injunctive relief against the work stoppage.

The general counsel, pursuant to Board direction under rule 32450(b),² conducted an investigative proceeding and submitted his reported recommendations to the Board itself

¹The Educational Employment Relations Act is codified at Government Code section 3540 et seq.

²California Administrative Code, title 8, section 32450(b), states:

Requests from parties that the Board seek injunctive relief shall be directed to the

May 3, 1979. On the basis of the results of his report and recommendation, the Board concluded that neither of the exclusive representatives had exhausted the statutory impasse procedures at the time the work stoppages occurred and that there was a likelihood that the District would prevail in its unfair practice charge alleging a violation of section 3543.6(d).³

The Board considers the enactment of the impasse provisions of the EERA as evidence of a legislative intent to head off work stoppages prior to the completion of those procedures. This policy has been incorporated in Board rule 38100, adopted shortly after our action in this proceeding.⁴

(ftn. 2 con't.)

General Counsel who shall promptly evaluate the request and advise the Board itself in regard thereto. Under direction of the Board itself the General Counsel shall take appropriate action in regard thereto and advise the parties thereof.

3Government code section 3543.6(d) states:

It shall be unlawful for an employee organization to:

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- (d) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with section 3548).

⁴California Administrative Code, title 8, section 38100, states:

In recognition of the fact that in some instances work stoppages by public school employees and lockouts by public school employers can be inimical to the public interest and inconsistent with those provisions of the Educational Employment Relations Act (EERA) requiring the parties

The Board directed the general counsel to seek injunctive relief against the work stoppages in a court of competent jurisdiction.

Shortly thereafter, the District announced its plan to discipline employees engaged in the work stoppage. The court, during the hearing on the application for a Temporary Restraining Order, indicated that the District's plan should be rescinded pending completion of administrative proceedings and conditioned its TRO against the employee organizations on that requirement. At the time no unfair practice charge had been filed against the District related to threatened disciplinary actions and PERB concluded that it lacked jurisdiction to seek

(ftn. 4 con't.)

to participate in good faith in the impasse procedure, it is the purpose of this rule to provide a process by which the Board can respond quickly to injunctive relief requests involving work stoppages or lockouts.

The EERA imposes a duty on employers and exclusive representatives to participate in good faith in the impasse procedure and treats that duty so seriously that it specifically makes it unlawful for either an employer or an exclusive representative to refuse to do so. The Board considers those provisions as strong evidence of legislative intent to head off work stoppages and lockouts until completion of the impasse procedure and will, therefore, in each case before it, determine whether injunctive relief will further the purposes of the EERA by fostering constructive employment relations, by facilitating the collective negotiations process and by protecting the public interest in maintaining the continuity and quality of educational services.

injunctive relief against the employer. However, on May 9, 1979, upon the filing of unfair practice charges by CSEA and VVDTA related to the threatened disciplinary steps, the Board directed the general counsel to request the court to enjoin any disciplinary action against those employees participating in the work stoppages pending a resolution of the underlying unfair practice charges. The court granted this further request for injunctive relief and a temporary restraining order was issued accordingly.

The following order reflects the Board's directions to its general counsel.

ORDER

Based on the results of an investigative proceeding conducted by the general counsel for the Public Employment Relations Board pursuant to Board rule 32450(b) in the matter of the request made by the Val Verde School District that the Public Employment Relations Board seek injunctive relief against work stoppages being conducted by California School Employees Association and its Val Verde Chapter 567 and the Val Verde District Teachers Association respectively, the Board ORDERS that the general counsel seek injunctive relief against any work stoppage engaged in, supported by or encouraged by California School Employees Association and its Val Verde Chapter 567 and the Val Verde District Teachers Association.

The Board further ORDERS that the general counsel seek injunctive relief against any disciplinary action by the District based on the employees' participation in such work

stoppage pending determination of the unfair practice charges filed by CSEA and VVDTA against the employer.⁵

By: Harry Gluck, Chairperson Barbara Moore, Member

Raymond J. Gonzales, Member, concurring:

I concur in the majority's decision to seek an injunction against the work stoppage by certificated and classified employees in this case. I also concur in the Board's May 9, 1979, decision to seek an injunction against proposed disciplinary action by the District. I based this decision on the general counsel's representation that there was reasonable cause to believe that the District's intended disciplinary actions could constitute an unfair practice.

This decision comports with my belief, expressed in my separate opinion in Las Virgenes Unified School District (6/12/79) PERB Order No. IR-8, that the Board should not seek conditional

⁵This decision and order memorializes directions previously issued by the Board to its general counsel. Actually, all unfair practice charges in this case were withdrawn prior to the release of this formal order.

injunctive relief.¹ When injunctive relief against a work stoppage is conditioned on the employer's conduct, the implication is that strikes by public school employees may be legitimized by such employer conduct. I firmly disagree. The appropriate remedy for alleged unlawful employer actions in response to a strike is for the employee organization to file an unfair practice charge and, if necessary, request the Board to seek injunctive relief against such actions.

In the present case, this procedure was followed; upon the filing of unfair practice charges and requests for injunctive relief by CSEA and VVDTA, PERB's staff investigated the allegations and the Board made a decision based on the general counsel's recommendations. Here, there was reasonable cause to believe that the District's actions could constitute an unfair practice and would cause irreparable harm to employee rights, thus permitting the Board to seek injunctive relief against the District, and as a result of a separate request for injunctive relief, against the employee organizations that had engaged in a work stoppage.

~~Raymond~~ Raymond J. Gonzales, Member

¹ Although an injunction against the work stoppage conditioned on the District's making no reprisals against the employees pending determination of the unfair practice charges was issued in this case, it was issued by the court on its own motion.