

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
)
 Complainant,) Case No. LA-PN-35
)
 v.) PERB Decision No. 186
)
 LOS ANGELES COMMUNITY COLLEGE DISTRICT,) December 15, 1981
)
 Respondent.)
)
)

Appearances: Howard O. Watts, representing himself.

Before Gluck, Chairperson; Moore and Tovar, Members.

DECISION

Howard O. Watts appeals a dismissal without further leave to amend of his public notice complaint alleging violations of sections 3547(a), (b) and (d) of the Educational Employment Relations Act.¹

¹The Educational Employment Relations Act is codified at Government Code section 3540 et seq. Unless otherwise noted, all references are to the Government Code.

Section 3547 reads:

(a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

Mr. Watts initially filed his complaint on July 3, 1981. On July 10, the complaint was dismissed by a regional director of the Public Employment Relations Board (PERB) with leave to amend. An amended complaint was received on July 22. This complaint included allegations that: (1) a five-minute time allotment per speaker was insufficient to address negotiating proposals; (2) addressing six proposals on a single agenda was burdensome and prevented complainant from expressing

(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

(d) New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.

himself on the issues; and (3) the Los Angeles Community College District never made public a board of trustees vote on a negotiation proposal.

On July 31, 1981, the regional director determined that each of the allegations failed to state a prima facie case, and the charges were dismissed without leave to amend. We summarily affirm the dismissal of the complaint.

In his appeal, Mr. Watts claims that the regional director failed to attach a proper proof of service thus violating PERB's rules 32140(a) and 37030(e).² After a review of the

²PERB rules are codified at California Administrative Code, title 8, section 31000 et seq.

Section 32140, subsection (a) provides in pertinent part:

(a) All documents referred to in these regulations requiring "service" or required to be accompanied by "proof of service," except subpoenas, shall be considered "served" by the Board or a party when personally delivered or deposited in the first-class mail properly addressed. All documents required to be served shall include a "proof of service" affidavit or declaration signed under penalty of perjury which meets the requirements of section 1013(a) of the Code of Civil Procedure or which contains the following information:

Section 37030, subsection (e) provides:

(e) If the complaint fails to state a prima facie violation of Government Code section 3547 and cannot be amended to state a prima facie violation, the Regional Director shall dismiss the complaint. A copy of the

record, the Board finds that service of Mr. Watts was in fact effected, that he received the letter of dismissal of the complaint and that he was able to file a timely appeal in response. Consequently, Watts was in no way prejudiced, and the failure to include proof of service in this instance is not sufficient grounds for reversal. Los Angeles Community College District (12/31/80) PERB Decision No. 153.

Mr. Watts also alleges that he did not receive sufficient assistance from PERB in filing his public notice complaint. While section 37030³ does require PERB representatives to

complaint and the letter of dismissal shall be served on the employer and the exclusive representative by the Regional Director.

³Section 37030 provides in pertinent part:

Processing of Complaint.

(a) When a complaint is filed, the case shall be assigned by the Regional Director to a Board agent for processing.

(b) The powers and duties of such Board agent shall be to:

(1) Assist the complainant to state in proper form the information required by Section 37020.

(2) Answer procedural questions regarding the processing of the case;

(3) Facilitate communication and the exchange of information between the complainant and the respondent or respondents;

provide assistance to the complainant, the rule is intended to provide technical assistance rather than legal representation. The record indicates that Mr. Watts was provided with such assistance during the course of his filings. The Board agent's refusal to provide interpretations of law, as Watts' requested, was proper.⁴

ORDER

Upon the foregoing decision and the entire record, the Public Employment Relations Board ORDERS that:

The public notice complaint, LA-PN-35, filed by Howard O. Watts against the Los Angeles Community College District is hereby DISMISSED in its entirety without leave to amend.

PER CURIAM

⁴After being told on July 10 that his facts failed to state a prima facie violation, Mr. Watts sought to have PERB agents assist him in arranging facts and issues which would constitute the prima facie violation for which they were looking.