STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

HOWARD O. WATTS.	)	
	)	
Complainant,	)	Case No. LA-PN-84
	)	
v.	)	PERB Decision No. 527
	)	
LOS ANGELES UNIFIED SCHOOL DISTRICT.	)	October 2, 1985
	)	
Respondent.	)	
	)	

Appearances; Howard 0. Watts, on his own behalf.

Before Hesse. Chairperson; Jaeger and Burt. Members.

DECISION

JAEGER. Member: On July 18. 1984. Howard O. Watts filed a complaint with the Los Angeles regional office of the Public Employment Relations Board (PERB) alleging that the Los Angeles Unified School District (District) had violated the public notice provisions of the Educational Employment Relations Act (EERA)[1] when, at its board of education meeting of June 18. 1984. it passed a motion endorsing the concept of comparable worth as a policy to be pursued by its negotiators in upcoming labor negotiations. On October 5, 1984. the regional office dismissed Mr. Watts' complaint for failure to state a prima facie case. Mr. Watts now appeals.

[1]The EERA is codified at Government Code section 3540 et seq. The public notice provisions of that legislation are set forth at section 3547.

For the reasons which follow, we reverse the dismissal and remand the matter to the General Counsel for further action.

DISCUSSION

In complaint No. LA-PN-84, Mr. Watts alleges that, in anticipation of upcoming labor negotiations, the District's board of education adopted a resolution which provides as follows:

> As the Board of Education approaches negotiations for the 1984-85 school year with the various bargaining units, it shall continue to subscribe to the philosophical position adopted and implemented last year of seeking to identify those employment classifications which are filled predominantly by women and will seek salary adjustments, wherever appropriate, to address perceived wage discrepancies and inequities. The identification of such employment classifications shall not imply that unlawful discrimination exists and shall not preclude or discourage the identification and remediation of any other types of pay disparities.

A similar resolution was adopted in the preceding year. Based on that action, the District's negotiators pursued and achieved changes in wage rates designed to give effect to the policy of comparable worth.

Mr. Watts alleges that, once again, the District is formulating its bargaining position through the pretextual format of a "philosophical position." Notwithstanding this pretextual form, he asserts, the resolution on comparable worth is in truth a part of the District's statement of its initial bargaining position and, as such, should have been sunshined.

On October 5, 1984, a regional representative at PERB's Los Angeles regional office issued a dismissal of the complaint on the grounds that no prima facie case had been stated. He reasoned that the EERA public notice provisions call only for the sunshining of bargaining proposals, and that the motion in question was not such a proposal. It contains no specific language that would permit a concrete counterproposal by an employee organization. It only endorses a concept which neither requires nor expects a response.

On appeal. Watts argues that, in passing the motion, the District adopted a position which expressly deals with the subject of wages and is intended to shape the District's negotiating position on that subject. Thus, assuming the District failed to permit public response to the plan, argues Watts, it violated its obligation under the EERA's public notice provisions. We agree.

We find that the Los Angeles regional representative applied an unduly restrictive definition of "initial proposal" as used in EERA section 3547 when he stated that, to be such, a proposal must be couched in specific language which would permit a concrete counterproposal.

Significantly, an examination of the proposals which the District did submit to the public notice process (copies of which Mr. Watts submitted with his charge) reveals that these "official" initial proposals are no more specific than the

comparable worth motion here at issue. For example, the initial proposal sunshined by the District in 1984 prior to commencement of negotiations with its instructional aides states in full as follows:

> The District proposes no changes to the current Unit B Agreement except to modify health and welfare plans (Article XIV, Health and Welfare) to reduce costs, improve efficiency, and hold District expenditures to no more than 1983-84 levels. Modifications may include use of Preferred Provider Organizations, flexible benefits plans, and a formula to determine increase (or decrease) in capped benefits.

By comparison, the comparable worth resolution directs the District's negotiators to

> . . . identify those employment classifications which are filled predominantly by women and [to] seek salary adjustments . . . to address perceived wage discrepancies and inequities.

While we are satisfied that the comparable worth resolution qualified as an initial proposal for purposes of section 3547, there is no indication in the record as to whether the regional representative did investigate to determine whether the complaint satisfies the remaining requirement to state a prima facie violation of section 3547. That is, the regional representative, in his letter of dismissal, is silent as to whether the District did or did not in fact "present" the comparable worth motion at a public meeting as required by the statute. We conclude that this determination is appropriately made by the regional office pursuant to its usual investigatory

procedures. We will therefore order that the case be remanded for that purpose.

ORDER

For the foregoing reasons, the Board REVERSES the dismissal of Case No. LA-PN-84 and remands the matter to the General Counsel for further investigation.

Chairperson Hesse and Member Burt joined in this Decision.