

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)	
)	
Charging Party,	)	Case No. LA-PN-16
<u>APPELLANT,</u>)	
)	
v.	)	PERB Order No. Ad-91
)	
LOS ANGELES COMMUNITY COLLEGE)	
DISTRICT,	)	ADMINISTRATIVE APPEAL
)	
Respondent.	)	June 16, 1980

Appearances: Howard O. Watts, representing himself; Mary L. Dowell, Attorney for Los Angeles Community College District.

Before Gluck, Chairperson; Gonzales and Moore, Members.

DECISION AND ORDER

Appellant Howard O. Watts has appealed the regional director's dismissal of his public notice complaint, in which he alleged that the Los Angeles Community College District violated Government Code sections 3547(a), (b), and (e)¹. PERB affirms the dismissal of the (a) and (e) complaints for the reasons set forth in the

¹Sections 3547(a), (b), and (e) of the California Government Code 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.
- (b) Meeting and negotiating shall not take place on any proposal until a reasonable time has

attached regional director's decision. PERB also affirms the dismissal of the (b) complaint on the grounds that the facts as alleged by appellant fail to state a prima facie case. Appellant alleged no facts indicating that the five-minute time limit for individual speakers provided inadequate time for meaningful debate of the negotiating proposals.

PER CURIAM

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.

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- (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.

PUBLIC EMPLOYMENT RELATIONS BOARD

STATE OF CALIFORNIA

HOWARD O. WATTS,)	
	)	Case No. LA-PN-16
Complainant,)	
	)	DISMISSAL WITHOUT LEAVE
v.	)	TO AMEND PUBLIC NOTICE
	)	COMPLAINT
LOS ANGELES COMMUNITY COLLEGE DISTRICT	)	and
	)	NOTICE OF CANCELLATION
Respondent,	)	OF HEARING
)	
and)	
)	
AFT COLLEGE GUILD, Local 1521,)	
)	
Respondent.)	

NOTICE IS HEREBY GIVEN that the above-captioned public notice complaint alleging violations of Government Code Section 3547¹ is dismissed without leave to amend on the following grounds:

The conditions set forth in California Administrative Code, title 8, section 37060² have been satisfied as to the portion of the complaint alleging a violation of section 3547(a) and Complainant has failed to allege facts which state a prima facie violation of section 3547(b) or (e).

NOTICE IS HEREBY GIVEN that the formal hearing scheduled for February 21, 1980 is cancelled.

¹All statutory references are to the Government Code unless otherwise noted.

Section 3547 provides:

- (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 school employer and thereafter shall be public records. (Cont'd. on page 2)

PROCEDURAL HISTORY

On October 24, 1979 Howard O. Watts (hereafter Complainant) filed a public notice complaint against the Los Angeles Community College District (hereafter LACCD) and the AFT College Guild, Local 1521 (hereafter AFT) alleging violation of section 3547(a), (b), (c), (d) and (e). The complaint was found to be improperly filed and was returned to Complainant. Complainant corrected the deficiency and refiled on October 29, 1979. On November 26, 1979 Complainant filed an amended complaint alleging violations of section 3547(a), (b) and (e) only.

(fn. 1 cont'd.)

(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.

²Section 37060 provides in part:

...Upon proof to the satisfaction of the Regional Director that the respondent has complied, the Regional Director may either approve the complainant party's withdrawal of the complaint or dismiss the complaint...

PERB Rules are codified at California Administrative Code title 8, section 31100 et seq.

On December 18, 1979 the amended complaint was served on LACCD and AFT. Accompanying the amended complaint was a copy of the "Notice of Formal Hearing" scheduled for February 21, 1980 and a copy of a "Notice of Informal Conference" scheduled for January 15, 1980.

On January 15, 1980 at 9:00 a.m. Complainant called the PERB office and stated that he was unable to appear for the informal conference scheduled for 2:00 p.m. Based on this conversation the informal conference was cancelled.

DISCUSSION

Complainant alleges a violation of section 3547(a) in that at the September 26, 1979 meeting of LACCD Board of Trustees the agenda item presenting the initial proposals of the AFT was incorrectly shown as "Presentation: AFT College Guild Address...Dr. Virginia Mulrooney."

On February 1, 1980 counsel for LACCD filed a statement indicating:

"...the District will undertake to ensure that on future agendas of the Los Angeles Community College District public meetings of the Board of Trustees, initial collective bargaining proposals of any exclusive representative or of the District will be clearly indicated. An example of an initial proposal agenda item is enclosed. We believe that the agenda of January 23, 1980 satisfies the requirements of Article 8 of the Educational Employment Relations Act and the regulations of the Public Employment Relations Board."

One of the January 23, 1980 agenda items referred to in the above statement is shown as follows "VII. California School Employees Association, Chapter 507, Initial Contract Proposal for the Technical/Clerical Unit Pursuant to Government Code Section 3547". It is

apparent that the LACCD has clearly indicated the presentation of an initial proposal on an agenda for a public meeting and its statement indicates that it will continue to do so in the future.

Complainant, having been furnished with a copy of the District's statement has declined to withdraw his complaint. Therefore, it is determined that pursuant to PERB rule 37060 LACCD has voluntarily complied and that portion of the complaint is dismissed.

Complainant alleges a violation of section 3547(b) in that he and other members of the public were allowed only five minutes to respond to initial proposals at the public meetings of LACCD Board of Trustees while Mrs. Mulrooney as a "resource person"³ was allowed unlimited time at the September 26, and October 10, 1979 meetings of LACCD Board of Trustees.

The initial proposals that were being presented were those of AFT and Dr. Mulrooney served as the spokesperson for AFT. Complainant has not alleged that meeting and negotiating took place before the public had the opportunity to become informed. Complainant has not alleged that the public was denied an opportunity to express itself; in fact, Complainant did speak for a period of five minutes at each of the two meetings. Therefore, it is determined that no violation of 3547(b) occurred and that portion of the complaint is dismissed.

³The LACCD Board of Trustees established a designation of "resource person" in 1975 to facilitate communication between the Board members and members of standing committees. These committees deal with specific areas of interest of the Board.

Finally, Complainant alleges a violation of section 3547(e) in that the public is not given full opportunity to express their views on the issues.

Section 3547(e) refers solely to the authority for the Public Employment Relations Board to adopt regulations and not to the rights of the public to be heard. Therefore, no violation has occurred and this portion of the complaint is dismissed.

ORDER

It is hereby ordered that:

(1) The complaint shall be dismissed; (2) the formal hearing scheduled for February 21, 1980 is cancelled.

Pursuant to California Administrative Code, title 8, sections 37030(e) and 37060, Complainant may appeal this dismissal by filing written exceptions with the Board itself at 923 12th Street, Suite 201, Sacramento, California, 95814 within seven (7) calendar days following the date of receipt of this order. The exceptions shall be accompanied by the proof of service of the document upon Respondents and the Regional Director. The exceptions shall state the grounds upon which the dismissal should be reversed.

DATED: February 15, 1980

Frances A. Kreiling^U
Regional Director