

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JUDITH D. KIMBROUGH,

Charging Party,

v.

ALAMEDA COUNTY MEDICAL CENTER,

Respondent.

Case No. SF-CE-96-M

Request for Reconsideration
PERB Decision No. 1620

PERB Decision No. 1620a-M

June 29, 2004

Appearance: Thomas M. Bond, Jr., for Judith D. Kimbrough.

Before Duncan, Chairman; Whitehead and Neima, Members.

DECISION

WHITEHEAD, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by Judith D. Kimbrough (Kimbrough) of the Board's decision in Alameda County Medical Center (2004) PERB Decision No. 1620-M (Alameda County). The charge alleged that the Alameda County Medical Center violated the Meyers-Milias-Brown Act (MMBA)¹ by refusing to meet and confer with Kimbrough in not arbitrating her grievance. Kimbrough alleged that this conduct comprised an unlawful unilateral change in violation of MMBA sections 3500 and 3502. In Alameda County, the Board adopted the Board agent's dismissal finding that an employer's duty to meet and confer under the MMBA is owed to the exclusive representative and not to an individual employee.

¹MMBA is codified at Government Code section 3500, et seq.

The request for reconsideration seeks clarification on two points. First, Kimbrough asks whether the charge stated a prima facie case. Second, she asks whether she has standing to pursue her charge under MMBA.

DISCUSSION

A request for reconsideration is governed by PERB Regulation 32410.² PERB Regulation 32410 states, in pertinent part:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case. [Emphasis added.]

In the request, Kimbrough stated neither of the grounds for reconsideration and so the request is dismissed.

MMBA section 3505 and PERB Regulation 32603(c) only require the employer to meet and confer in good faith with the exclusive representative. (See also, Oxnard School District (Gorcey and Tripp) (1988) PERB Decision No. 667; State of California (Department of

²PERB regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

Corrections) (1993) PERB Decision No. 972-S.) There is no parallel mandate with regard to individual employees. While MMBA section 3502 allows individual employees the right to represent themselves in their employment relations with the public agency employer, there is no corresponding provision that requires the employer to negotiate with the individual employee. As only employee organizations may bring an allegation of unilateral change and the Board lacks authority to adjudicate such an allegation by individual employees, Kimbrough lacks standing to bring this charge.

ORDER

Judith D. Kimbrough's request for reconsideration of the Board's decision in Alameda County Medical Center (2004) PERB Decision No. 1620 is hereby DENIED.

Chairman Duncan and Member Neima joined in this Decision.