**STATE OF CALIFORNIA**
**DECISION OF THE**
**PUBLIC EMPLOYMENT RELATIONS BOARD**

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| JUDY K. GARCIA, | ) | |
| | ) | |
| Charging Party, | ) | Case No. S-CO-150-S |
| | ) | |
| v. | ) | Request for Reconsideration |
| | ) | PERB Decision No. 1014-S |
| CALIFORNIA STATE EMPLOYEES ASSOCIATION, | ) | PERB Decision No. 1014a-S |
| | ) | |
| Respondent. | ) | November 16, 1993 |
| | ) | |

Appearances: Judy K. Garcia, on her own behalf; James W. Milbradt, Statewide Arbitration Coordinator for California State Employees Association.

Before Caffrey, Carlyle and Garcia, Members.

DECISION

CARLYLE, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by the California State Employees Association (CSEA) of the Board's decision in California State Employees Association (Garcia) (1993) PERB Decision No. 1014-S. In that decision, the Board reversed the Board agent's dismissal and found that Judy Garcia (Garcia) had stated a prima facie violation of section 3519.5(b) of the Ralph C. Dills Act (Dills Act)[1] by alleging that

[1]The Dills Act is codified at Government Code section 3512 et seq. Section 3519.5 states, in pertinent part:

> It shall be unlawful for an employee organization to:
>
> (b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce

CSEA retaliated against her and refused to grant a hearing on her suspension in response to filing an unfair labor practice charge with the Board.

In its request for reconsideration, which is opposed by Garcia, CSEA provides copies of memos allegedly showing that a hearing panel had been selected for Garcia and that the charge leading to Garcia's suspension had been withdrawn.

DISCUSSION

PERB Regulation 32410 (a)[2] states, in pertinent part:

> The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence of law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

CSEA admits the evidence it submits in its reconsideration request was located within its own files. As CSEA had access to this material when this case was before the Board agent and the Board, the evidence presented in its reconsideration request cannot be classified as newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence.

Based upon the foregoing, CSEA has failed to demonstrate sufficient grounds for its reconsideration request.

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> employees because of their exercise of rights guaranteed by this chapter.

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

## ORDER

The request for reconsideration of California State Employees Association (Garcia) (1993) PERB Decision No. 1014-S is hereby DENIED.

Members Caffrey and Garcia joined in this Decision.