

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



LETICIA GONZALEZ,)
)
Charging Party,) Case No. S-CO-267
)
v.) Request for Reconsideration
) PERB Decision No. 935
LINDSAY TEACHERS ASSOCIATION,)
) PERB Decision No. 935a
Respondent.)
_____.) July 16, 1992

Appearances: Bourdette and Partners by Allen Broslovsky, Attorney, for Leticia Gonzalez; California Teachers Association by Ramon E. Romero, Attorney, and Michael Engel, Law Clerk, for Lindsay Teachers Association.

Before Hesse, Chairperson; Camilli and Caffrey, Members.

DECISION

CAFFREY, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Leticia Gonzalez (Gonzalez) of the Board's decision in Lindsay Teachers Association (Gonzalez). (1992) PERB Decision No. 935. In that decision the Board denied Gonzalez's appeal of a Board agent's dismissal of her unfair practice charge on the grounds that she had failed to state a prima facie case of a violation of the duty of fair representation by the Lindsay Teachers Association.

DISCUSSION

In her request for reconsideration, Gonzalez, who was in pro per in her appeal, contends that the fact that she is now represented by counsel will allow her to "present her charges in a more focused manner" and provide the Board with new evidence.

Gonzalez argues that her "charges were not fully and fairly decided on its (sic) merits" by the Board agent because the numerous notes and exhibits she submitted were unorganized and difficult to review. Gonzalez further contends that the Board, in denying her appeal, conducted only "a cursory review" of the Board agent's warning and dismissal letters and reviewed no other material she had submitted which "violated her due process rights and constitutes an abuse of discretion."

PERB Regulation section 32410(a)¹ 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 or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

Failure by a party to present a well organized case to a Board agent, or on appeal to the Board, does not constitute appropriate grounds under which that party may request reconsideration.

Furthermore, while Gonzalez contends that her counsel will provide the Board with new evidence if reconsideration is granted, no such evidence is cited in support of the request for reconsideration. Therefore, Gonzalez's request that the Board grant reconsideration now that she has retained counsel to help present her case is rejected.

In his dismissal letter, the Board agent indicates that he considered the numerous notes and exhibits Gonzalez submitted

¹PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

with her amended charge. Because of the disorganization of the material and the difficulty in determining its relevance to Gonzalez's charges, the Board agent concluded that Gonzalez had failed to meet the requirements of PERB Regulation 32615² and dismissed the allegations, if any, contained in the material. The failure of a charging party to comply with Board regulations governing unfair practice proceedings does not provide support for the contention that the unfair practice charge allegations were not fully considered by a Board agent. Therefore, Gonzalez's argument to this effect is rejected.

Finally, Gonzalez is incorrect in asserting that the Board reviewed only the Board agent's warning and dismissal letters and no other documents in considering her appeal. In Santa Clara Unified School District (1979) PERB Decision No. 104, the Board discussed its authority and responsibility in considering appeals, indicating that "the Board is required to consider the entire record including the totality of testimony offered, and is

²PERB Regulation section 32615(a) (5) states, in pertinent part:

(a) A charge may be filed alleging that an unfair practice or practices have been committed. The charge shall be in writing, signed under penalty of perjury by the party or its agent with the declaration that the charge is true, and complete to the best of the charging party's knowledge and belief, and contain the following information:

(5) A clear and concise statement of the facts and conduct alleged to constitute an unfair practice;

free to draw its own and perhaps contrary inferences from the evidence presented." The Board considered the entire record in this case. Therefore, Gonzalez's contention that the Board abused its discretion by failing to consider material submitted by Gonzalez is without merit and is rejected.

ORDER

The request for reconsideration in PERB Decision No. 935 is hereby DENIED.

Chairperson Hesse and Member Camilli joined in this Decision.