



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

CATHY R. HACKETT, ET AL.,)	
)	
Charging Parties,)	Case No. S-C0-147-S
)	
v.)	Request for Reconsideration
)	PERB Decision No. 979-S
CALIFORNIA STATE EMPLOYEES)	
ASSOCIATION,)	
)	PERB Decision No. 979a-S
Respondent.)	
<hr/>		May 25, 1993

Appearances: Cathy R. Hackett, on her own behalf; Howard Schwartz, Attorney, for California State Employees Association.

Before Blair, Chair; Hesse and Caffrey, Members.

DECISION

HESSE, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Cathy R. Hackett (Hackett) of the Board's decision in California State Employees Association. (Hackett et al.) (1993) PERB Decision No. 979-S. In that decision the Board denied Hackett's appeal of a Board agent's dismissal of her unfair practice charge on the grounds that she failed to state a prima facie case of a violation of sections 3512, 3515.5, 3519.5(b) and 3515.6 of the Ralph C. Dills Act (Dills Act).¹ Hackett alleges

¹The Dills Act is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Sections 3512 and 3515.6 of the Dills Act set forth the purposes of the Dills Act and the right of employee organizations to have membership dues, initiation fees, membership benefit programs and general assessments deducted. Section 3515.5 states:

Employee organizations shall have the right
to represent their members in their

that the California State Employees Association (CSEA) violated the Dills Act by discriminating and imposing reprisals against members of the Unit 1 Bargaining Unit Committee. It is also alleged that CSEA violated its duty of fair representation. In the request for reconsideration, Hackett asserts that the Board did not comprehensively consider her appeal of the dismissal of her unfair practice charge.

DISCUSSION

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

employment relations with the state, except that once an employee organization is recognized as the exclusive representative of an appropriate unit, the recognized employee organization is the only organization that may represent that unit in employment relations with the state. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the state.

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

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

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.

Hackett's assertions that the Board failed to carefully consider her appeal are without merit. The Board thoroughly considered the allegations in her charge and the appeal of the dismissal. Despite Hackett's voluminous submission of filings (in excess of 380 pages), the charge and appeal fails to state a prima facie case of a Dills Act violation. In the request before the Board, Hackett has failed to cite any newly discovered evidence or law that would support reconsideration by the Board. Instead, Hackett reargues the claims made in the underlying charge and restates allegations made for the first time on appeal.³

³This portion of the charge challenges CSEA's internal discipline procedures, an area into which the Board will not intervene except where the internal activities of the employee organization have a substantial impact upon employees relationships with their employer. Hackett, for the first time on appeal of the dismissal and in support of her challenge to CSEA's internal procedures, alleged that CSEA violated sections 3518.7 and 3519(d) of the Dills Act because its Board of Directors and General Council are dominated by supervisors, retirees and California State University employees.

PERB Regulation 32635(b) provides in part that:

Unless good cause is shown, a charging party may not present on appeal new charge allegations or new supporting evidence.

As Hackett failed to show good cause for presenting new evidence, the Board rejected that portion of the appeal. Assuming no jurisdiction bar exists and there is standing to file a charge, Hackett is not precluded from filing an independent unfair

ORDER

The request for reconsideration in PERB Decision No. 979-S is hereby DENIED.

Chair Blair and Member Caffrey joined in this Decision.

practice charge based on new facts which occurred subsequent to the Board agent's dismissal. (See Sacramento City Unified School District (1992) PERB Decision No. 952.)