

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



UNIVERSITY COUNCIL, AFT, LOCALS)
2034, 2199, 1990, 1474, 2141,)
1966, 2226, 1795 and 2023,) Case No. SF-CE-44-H
)
Charging Party,) Remand from Court
)
v.) PERB Decision No. 725a-H
)
REGENTS OF THE UNIVERSITY OF) December 21, 1990
CALIFORNIA,)
)
Respondent.)
_____)

Appearances: Steiner and Gerstein by Robert S. Gerstein, Attorney, for University Council, AFT, Locals 2034, 2199, 1990, 1474, 2141, 1966, 2226, 1795 and 2023; Susan M. Thomas, Attorney, for Regents of the University of California.

Before Hesse, Chairperson; Shank and Camilli, Members.

DECISION

CAMILLI, Member: The Public Employment Relations Board (PERB or Board) issued its Decision No. 725-H on March 21, 1989 finding that the Regents of the University of California (University) unlawfully denied the University Council, AFT, Locals 2034, et al. (UC-AFT) access to the University's internal mail system for unstamped union mail. PERB ordered that access be granted under the Higher Education Employer-Employee Relations Act (HEERA),¹ subject to the requirement that such delivery of unstamped union mail be in compliance with the Private Express

¹HEERA is codified at Government Code section 3560 et seq. Unless otherwise indicated, all statutory references are to the Government Code.

Statutes and any other "reasonable regulation" within the meaning of HEERA section 3568.

On April 20, 1989, the University appealed this Decision to the First District Court of Appeal, arguing that PERB's finding and order were not supported by substantial evidence and that PERB had denied the University due process by not allowing it to litigate certain factual issues. The Court of Appeals issued a published decision on May 16, 1990 vacating PERB's decision and remanding the case to PERB for further proceedings. (Regents of the University of California v. Public Employment Relations Board (1990) 220 Cal.App.3d 346 [___ Cal.Rptr. ___].)

In its decision, the court agreed with the University's contention that the record of the case does not contain substantial evidence to support a finding that the University is under a duty to deliver some UC-AFT mail, consistent with federal law and reasonable University regulations. The court stated in conclusion:

Nothing in this opinion is intended to preclude a finding that the University is under a duty to deliver some union mail. . . .

If this matter is to go forward, it must be on the basis of evidence of proffered mailings and the surrounding circumstances, sufficient to enable the Board to determine the applicability of the Private Express Statutes to such mailings and the reasonableness of requiring such deliveries as may be found to be lawful. . . .
(Id. at pp. 362-363.)

Accordingly, the record must be reopened to allow UC-AFT the opportunity to introduce relevant evidence which might support a

finding that the University's policies unlawfully deny access to its internal mail system for unstamped union mail.

ORDER

The Board hereby REMANDS the matter to the Chief Administrative Law Judge to conduct a hearing for the purpose of taking additional evidence consistent with the opinion of the court, noted above, and, upon completion of the hearing, make recommended findings of fact and conclusions of law in consideration of the additional evidence and the existing record.

Chairperson Hesse and Member Shank joined in this Decision.