

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



SAN FRANCISCO COMMUNITY COLLEGE)
FEDERATION OF TEACHERS, AFT 2121,)
Charging Party,) Case No. SF-CE-1146
v.) Request for Reconsideration
PERB Decision No. 703b
SAN FRANCISCO COMMUNITY COLLEGE)
DISTRICT,) PERB Decision No. 703c
Respondent.)
January 22, 1990

Appearances: Robert J. Bezemek, Attorney, for San Francisco Community College Federation of Teachers, AFT 2121; Liebert, Cassidy & Frierson by Nicholas T. Calderon and Jeffrey Sloan, Attorneys, for San Francisco Community College District.

Before Hesse, Chairperson; Craib, Shank, and Camilli, Members.

DECISION

HESSE, Chairperson: The San Francisco Community College Federation of Teachers, AFT 2121 (Federation) requests reconsideration of Decision No. 703b, issued by the Public Employment Relations Board (PERB or Board) on November 28, 1989. Having duly considered the Federation's request for reconsideration and the San Francisco Community College District's (District) response, the Board itself hereby denies the request for the reasons that follow.

In PERB Decision No. 703b, the Board denied the Federation's request to vacate PERB Decision Nos. 703 and 703a. The Board held that it does not have jurisdiction to nullify or vacate a final decision. The Federation's request was based on a decision by the Court of Appeal, First Appellate District, Division Five

in United Public Employees Local 790. SEIU. AFL/CIO v. Public Employment Relations Board (1989) 213 Cal.App.3d 1119, which annulled PERB's decision in San Francisco Community College District (1988) PERB Decision Nos. 688 and 688a, a companion case involving the classified employees' exclusive representative. In PERB Decision No. 703b, the Board held that since neither the Federation nor the District sought judicial review of the Board's decision in PERB Decision Nos. 703 and 703a, those decisions were final, and, thus, the Board could not vacate them.

DISCUSSION

PERB Regulation 32410(a)¹ states, in pertinent part:

Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision 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.

The request for reconsideration asserts that the Board has jurisdiction to "rectify the damages suffered by several individuals involved in Decision No. 703 and 703a." The Federation bases its argument on the fact that the Court of Appeal vacated the Board's decision in San Francisco Community College District, supra, PERB Decision Nos. 688 and 688a. The Federation argues that the Board, pursuant to section 3541.3(n) of the Educational Employment Relations Act, has the authority to

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

"take such other action as the Board deems necessary to discharge its powers and duties and otherwise effectuate the purposes of this chapter." These arguments do not allege either prejudicial errors of fact or newly discovered evidence or law. As this request for reconsideration consists solely of assertions that the Board made errors of law, the Federation has failed to demonstrate extraordinary circumstances warranting reconsideration.²

ORDER

The request for reconsideration filed by the San Francisco Community College Federation of Teachers, AFT 2121 is DENIED.

By the Board.³

²In a subsequent decision by the Board at San Francisco Community College District (1989) PERB Decision No. 688b, the Board stated that PERB Decision Nos. 703 and 703a, wherein the Board found that the District and the City and County of San Francisco were not joint employers, were not vacated. However, the Board noted that the Court of Appeal, in its decision in United Public Employees Local 790, SEIU, AFL/CIO v. Public Employment Relations Board, supra, 213 Cal.App.3d 1119, held that the District and City and County of San Francisco are joint employers, and annulled Decision Nos. 688 and 688a.

³Member Cunningham did not participate in this Decision.