

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



HOWARD O. WATTS,)
) Case No. LA-PN-91
 Complainant,)
) Request for Reconsideration
 v.) PERB Decision No. 705
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) PERB Decision No. 705a
)
 Respondent.) June 19, 1989
 _____)

Appearance: Howard O. Watts, on his own behalf.

Before Hesse, Chairperson; Craib and Shank, Members.

DECISION

HESSE, Chairperson: Howard O. Watts requests reconsideration of PERB Decision No. 705, issued by the Public Employment Relations Board (PERB or Board) on December 16, 1988. Having duly considered Mr. Watts' written request for reconsideration in detail, the Board itself hereby denies the request for the reasons that follow.

In PERB Decision No. 705, the Board affirmed the Board agents' dismissal of the complainant's allegation that the Los Angeles Unified School District had not properly allowed time for the public response to a non-substantive amendment to a school calendar. The calendar had been previously noticed in accordance with the requirements of section 3547(a), (b), (c), and (e) of

the Educational Employment Relations Act (EERA).¹ The Board also refused to consider a claim of new evidence in the complainant's bare assertion there were "more documents" where there was no showing that the evidence was previously unavailable.

¹EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. EERA section 3547 states, in pertinent part:

(a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

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(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.

DISCUSSION

PERB Regulation 32410(a)² 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.
(Emphasis added.)

In his request for reconsideration, the complainant, inter alia, argues that each public noticed subject must go through three phases, i.e., (1) the actual public notice, (2) a two-week opportunity for public comment, and (3) the meeting where the public noticed proposals are actually adopted. The complainant asserts that he had recently acquired minutes of two meetings of the board and committees of the board, dated March 16 and 30, 1987. The claim is simply that they were "unavailable until now." However, the complainant offers no explanation as to why these documents could not have been discovered with the exercise of reasonable diligence between March 16, 1987, and the Board agent's decision in October 1987.

Therefore, the Board rejects the complainant's arguments in support of his request for reconsideration in that he has not set forth sufficient grounds for such request in accordance" with PERB

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

Regulation 32410(a). Nor has he otherwise demonstrated extraordinary circumstances warranting reconsideration.

ORDER

The request by the complainant that the Public Employment Relations Board grant reconsideration of Los Angeles Unified School District (Watts) (1988) PERB Decision No. 705 is DENIED,

Members Craib and Shank joined this Decision.