

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



CORNING UNION HIGH SCHOOL)	
TEACHERS ASSOCIATION, CTA/NEA,)	
)	
Charging Party,)	Case No. S-CE-206
)	
v.)	Request for Reconsideration
)	PERB Decision No. 399
CORNING UNION HIGH SCHOOL)	
DISTRICT,)	PERB Decision No. 399a
)	
Respondent.)	October 17, 1984
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Appearances: Harold J. Lucas, Attorney for Corning Union High School District; Kirsten L. Zerger, Attorney for Corning Union High School Teachers Association, CTA/NEA.

Before Hesse, Chairperson; Morgenstern and Burt, Members.

DECISION

MORGENSTERN, Member: The Public Employment Relations Board (PERB or Board), having duly considered the request for reconsideration¹ filed by the Corning Union High School District (District) , hereby denies that request.

¹PERB rules are codified at California Administrative Code, title 8, section 31001 et seq. PERB rule 32410(a) provides:

Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and 5 copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where

DISCUSSION

The District's reconsideration request rests on its assertion that paragraph B(3) of the Board's order² is inappropriate due to the lengthy period of time that elapsed between issuance of the hearing officer's proposed decision and issuance of the Board's decision.

applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. 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.

²Paragraph B(3) reads as follows:

Grant to each of the seven employees harmed by the unilateral change the amount of time off which corresponds to the number of extra hours worked as a result of the elimination of the preparation period. Should the parties fail to reach a satisfactory accord as to the manner in which such time off will be granted or if an individual is no longer in the District's employ, then such employees will be granted monetary compensation commensurate with the additional hours worked. However, if subsequent to the District's unlawful action, the parties have, on their own initiative, reached agreement or negotiated through the completion of the statutory impasse procedure concerning preparation periods, then liability for compensatory time off or back pay shall terminate at that point. Any monetary payment shall include interest at the rate of seven (7) percent per annum.

In accordance with prior Board decisions,³ we are disinclined to order those employees harmed by the employer's unilateral changes to forfeit their rights to full make-whole relief because of administrative delay.

The District's remaining contentions fail to demonstrate the requisite "extraordinary circumstances" and indeed seem to assert various difficulties and burdens which, at this juncture, have yet to materialize.

ORDER

For the reasons set forth above, the Corning Union High School District's request for reconsideration OF PERB Decision No. 399 is DENIED.

Chairperson Hesse and Member Burt joined in this Decision.

³Pittsburg Unified School District (4/2/84) PERB Decision No. 318a; Mt. San Antonio Community College District (3/24/83) PERB Decision No. 297.