

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



LINETTE ROBINSON,

Charging Party,

v.

BERKELEY UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. SF-CE-3192-E

PERB Decision No. 2711

April 24, 2020

Appearances: Valerie Trahan, for Linnette Robinson; Atkinson, Andelson, Loya, Ruud & Romo by Marleen Sacks and Georgelle Cuevas, Attorneys, for Berkeley Unified School District.

Before Shiners, Krantz, and Paulson, Members.

DECISION¹

PAULSON, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions by Linnette Robinson (Robinson) and the Berkeley Unified School District (District) to a proposed decision by an administrative law judge (ALJ), which dismissed the complaint and unfair practice charge. The

¹ Subdivision (d) of PERB Regulation 32320, as amended effective April 1, 2020, permits a majority of Board members issuing any decision or order to designate all or part of such decision or order as non-precedential. Based on all relevant circumstances, including the criteria set forth in Regulation 32320, subdivision (d), we designate the instant decision as non-precedential. (PERB Regulations are codified at Cal. Code Regs., tit. 8, § 31001 et seq.)

complaint alleged that the District retaliated against Robinson for engaging in protected activities in violation of the Educational Employment Relations Act (EERA).²

Based on our review of the proposed decision, the entire record, and relevant legal authority in light of the parties' submissions, we conclude that the record supports the ALJ's factual findings and that his conclusions of law are well reasoned and consistent with applicable law. We therefore affirm the dismissal of the complaint.

In her exceptions, Robinson repeats arguments about nexus factors she raised in briefing with the ALJ. Although the Board applies a de novo standard of review when resolving exceptions to a proposed decision, to the extent exceptions merely reiterate factual or legal contentions resolved correctly in the proposed decision, the Board need not further analyze those exceptions. (*City of Callexico* (2017) PERB Decision No. 2541-M, pp. 1-2.) That is the case here.

Likewise, Robinson disputes the ALJ's characterization of her conduct as intemperate. The crux of the ALJ's analysis was that Robinson's conduct was of a character that would credibly result in a letter of reprimand independent of protected activity, and thus, the measure of discipline did not indicate an unlawful motive. We agree with this assessment.

The District, for its part, excepts to the ALJ considering protected activities not alleged in the complaint; concluding that the Satisfactory rating for attendance presented some minimal support for the irregularity of the letter of reprimand; and considering hearsay evidence. Having found that charging party failed to meet her burden to establish a prima facie case, we decline to consider these exceptions as

² EERA is codified at Government Code section 3540 et seq.

they have no bearing on the outcome of the case. (*Oak Valley Hospital District* (2018) PERB Decision No. 2583-M, p. 5.)

ORDER

The complaint and underlying unfair practice charge in Case No. SF-CE-3192-E are DISMISSED.

Members Shiners and Krantz joined in this Decision.