



STATE OF CALIFORNIA
DECISION OF THE EDUCATIONAL
EMPLOYMENT RELATIONS BOARD

WESTMINSTER PROFESSIONAL EDUCATORS
GROUP (PEG) ,

Charging Party,

vs.

WESTMINSTER SCHOOL DISTRICT,

Respondent.

Case No. LA-CE-106

EERB Decision No. 43

December 16, 1977

WESTMINSTER PROFESSIONAL EDUCATORS
GROUP (WPEG) ,

Charging Party,

vs.

WESTMINSTER TEACHERS ASSOCIATION/
CTA/NEA,

Respondent...

Case No. LA-CO-20

Appearances; Nancy Rudoff for Westminster Professional Educators Group;
John L. Bukey, Attorney (Biddle, Walters & Bukey) for Westminster School
District; Paul Crost, Attorney (Reich, Adell & Crost) for Westminster
Teachers Association/ CTA / NEA .

Before Alleyne, Chairman; Gonzales and Cossack, Members.

OPINION

This case is before the Educational Employment Relations Board upon
the appeal by Westminster Professional Educators Group of the General
Counsel's dismissal of its unfair practice charge against both the
Westminster School District and Westminster Teachers Association/CTA/NEA.¹
The General Counsel, in the attached Ruling on Motions to Dismiss, found
it was not an unfair practice under the Educational Employment Relations
Act for the District, at the request of the Association, to discontinue
membership dues deductions in favor of WPEG upon the certification of the
Association as the exclusive representative of an appropriate unit of
certificated employees of the District.

¹/ Hereinafter the Westminster Professional Educators Group will
be referred to as "WPEG;" the Westminster School District will be
referred to as "District;" and the Westminster Teachers Association/
CTA/NEA will be referred to as the "Association."

The issue presented by this case is not the one addressed by the Ruling on Motions to Dismiss in that the charge does not allege the District in fact discontinued membership dues deductions in favor of WPEG. The charge only states in relevant part that the District's superintendent informed the president of WPEG that he had instructed the District's payroll clerk to discontinue payroll privileges for WPEG. However, this does not alter the result we reach. For the reasons stated in the Ruling on Motions to Dismiss, we conclude that once an employee organization becomes the exclusive representative of an appropriate unit of employees, it is not an unfair practice for a school district to discontinue membership dues deductions for another organization if that organization is an employee organization within the meaning of Government Code Section 3540.1 (d).² It follows that it was not an unfair practice for the superintendent to instruct the payroll clerk to discontinue membership dues deductions in favor of WPEG at the request of the Association upon its certification as the exclusive representative of an appropriate unit of certificated employees of the District.

By: Raymond J. Gonzales, Member

Reginald Alleyne, Chairman

Jerilou H. Cossack, Member

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Gov. Code Sec. 3540.1 (d) provides as follows:

"Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer. "Employee organization" shall also include any person such an organization authorizes to act on its behalf.

EDUCATIONAL EMPLOYMENT RELATIONS BOARD
OF THE STATE OF CALIFORNIA

In the Matter of)	
)	
WESTMINSTER PROFESSIONAL)	
EDUCATORS GROUP (WPEG),)	Case Nos. LA-CE-106
)	LA-CO-20
Charging Party,)	
)	
vs.)	RULING ON MOTIONS
)	TO DISMISS
)	
WESTMINSTER SCHOOL DISTRICT)	
and WESTMINSTER TEACHERS)	
ASSOCIATION,)	
)	
Respondents.)	
)	

BACKGROUND

On April 7, 1977, the charging party filed simultaneous charges against the respondents. The charging party alleges that the respondent school district, at the request of the respondent teachers association, discontinued membership dues deductions of the charging party upon the certification of the Westminster Teachers Association as the exclusive representative of an appropriate unit of certificated employees of the Westminster School District.^{1/} The charging party contends the respondents have violated charging party's rights as found in Government Code Section 3543.1(d), and thus, there has been an unfair practice based on Sections 3543.5(b) and 3543.6(c).

Government Code Section 3543.1(d) provides as follows:

1/ The case files of the Educational Employment Relations Board, of which the Hearing Officer takes official notice, show that the Westminster Teachers Association was certified as the exclusive representative on March 23, 1977.

All employee organizations shall have the right to have membership dues deducted pursuant to Sections 13532 and 13604.2 of the Education Code, until such time as an employee organization is recognized as the exclusive representative for any of the employees in an appropriate unit; and then such deduction as to any employee in the negotiating unit shall not be permissible except to the exclusive representative.

The charging party's contention is that Section 3543.1(d) states that only a "recognized" exclusive representative is entitled to exclusive membership dues deductions, and inasmuch as the Westminster Teachers Association was "certified" as the exclusive representative, then Section 3543.1(d) does not preclude membership dues deductions to be made for the charging party.^{2/}

The Westminster Teachers Association filed an answer and motion to dismiss on May 4, 1977. The Westminster School District filed its answer on May 12, 1977. On May 23, 1977, the District joined the Westminster Teachers Association in its motion to dismiss. No response to the motion was filed by the WPEG in a timely manner.

DISCUSSION

The sole issue presented in this case is one of statutory interpretation.

In analyzing this particular section of the Educational Employment Relations Act, the exact phraseology used in a particular section is not as significant as the general tenor and scope of the entire act. "While the intention of the Legislature must be ascertained from the words used to express it, the manifest reason and obvious design of the statute should not

^{2/} The pertinent Government Code sections are:

3540.1(b) : "Certified organization" or "certified employee organization" means an organization which has been certified by the board as the exclusive representative of the public school employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3544).

be sacrificed to a literal interpretation of such language." Los Angeles v. Barrett, 153 Cal. App. 2d 776, 782 (1959). Thus, the literal meaning of the words of a statute may either be disregarded to give effect to the manifest purpose of the statute, Smith v. Mt. Diablo Unified School District, 56 Cal. App. 3d 412, 418 (1976), or, under the rule of noscitur e sociis, the meaning of a particular word may be enlarged by reference to the object or purpose of the whole clause in which it is used. People v. Stout, 18 Cal. App. 3d 172 (1971).

The manifest purpose of the EERA, as stated in Government Code Section 3540 and derived from reading the entire Act, is to allow employees, if they so choose, "to select one employee organization as the exclusive representative of all employees in an appropriate unit". And the object of Section 3543.1(d) is clearly to provide to only an exclusive representative the right to have membership dues deducted from employees' payroll warrants. It is inconceivable that the Legislature meant that an employee organization which became certified as the exclusive representative by the EERB would not be entitled to the same rights under the Act with respect to dues deductions as that accorded an exclusive representative which was voluntarily recognized. To conclude otherwise would render the express purpose of the Act meaningless and reduce to a nullity Section 3543.1(d). Such a result was never intended by the

Footnote 2 (continued)

3540.1(e): "Exclusive representative" means the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

3540.1(1): "Recognized organization" or "recognized employee organization" means an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544) .

Legislature.^{3/}

Based on the foregoing, and considering the overall purpose and policy of the Act, the statutory history of the Act, and public policy, the respondents' motions to dismiss are GRANTED and the charges are hereby dismissed.

The charging party may obtain a review of the dismissal by filing an appeal to the Board itself within ten (10) calendar days after service of this dismissal. Such appeal must be in writing, signed by the party or its agent, and contain the facts and arguments upon which the appeal is based. EERB Regulation 35007(b).

WILLIAM P. SMITH, JR.
General Counsel

Dated: May 24, 1977.

By: _____
Jeff Paule
Hearing Officer

^{3/} Charging party's reliance on the literal definition of words and phrases cuts against the charging party: The charging party stresses the word "recognized" in the first phrase of Section 3543.1(d), which states, "all employee organizations shall have the right to have membership dues deducted ... until such time as an employee organization is recognized as the exclusive representative". The charging party ignores, however, the subsequent phrase, "and then such deduction as to any employee in the negotiating unit shall not be permissible except to the exclusive representative" (emphasis added). Referring back to Section 3540.1(e), "exclusive representative" is defined to mean the employee organization recognized or certified as the exclusive representative.

Perhaps the most rational and sensible way in which to interpret this section of the Act is to say that after an employee organization becomes the exclusive representative by winning a representation election, the employer is then forced to recognize that employee organization as the exclusive representative. In reality, this is precisely what occurs.