STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

UNITED PROFESSORS OF MARIN, AFT LOCAL 1610, AFL-CIO,	)	
Charging Party,	)	Case No. SF-CE-124
v.	)	PERB Decision No. 161
MARIN COMMUNITY COLLEGE DISTRICT,	)	April 3, 1981
Respondent.	)	

Appearances: Robert J. Bezemek, Attorney (Van Bourg, Allen, Weinberg & Roger) for United Professors of Marin, AFT Local 1610, AFL-CIO; Richard V. Godino, Attorney (Breon, Galgani & Godino) for Marin Community College District.

Before Gluck, Chairperson; Jaeger, Moore and Tovar, Members.

DECISION AND ORDER

This case is before the Board on appeal from a dismissal by the hearing officer of charges alleging that the employer failed to meet and consult with the charging party, United Professors of Marin, AFT Local 1610, AFL-CIO (hereafter UPM). At the time the charge was filed and dismissed, the charging party was not yet an exclusive representative, nor had a unit been determined.

The record indicates that now the charging party is certified as the exclusive representative of the employees on whose behalf it sought to meet and consult. As a result of this development, the employer now clearly has a duty to meet and negotiate with charging party. The Board therefore finds that no useful purpose would be served by reviewing the issue

of whether, on June 29, 1977, the employer should have met and consulted with UPM prior to the complained of actions. The Board therefore SUSTAINS the hearing officer's dismissal of the charge.

PER CURIAM

STATE OF CALIFORNIA

EDUCATIONAL EMPLOYMENT RELATIONS BOARD

In the matter of:	
UNITED PROFESSORS OF MARIN, AFT, LOCAL 1610, AFL-CIO, Charging Party,	
vs.	CASE No. SF-CE-124-77/78
MARIN COMMUNITY COLLEGE DISTRICT, Respondent.	

REVISED
NOTICE OF DISMISSAL
WITHOUT LEAVE TO AMEND

Notice is hereby given that the above charge is dismissed without leave to amend. The dismissal is based on the following grounds:

The charge alleges in substance that the District has violated Sections 3543.5(a) and (b) of the Government Code in that they unilaterally reduced the size of faculty, thereby burdening the remaining faculty with larger classes,without notice to the charging party and without providing an opportunity to meet and consult. Charging party alleges that this also violated their Section 3543.1(a) right to represent their members regarding a matter within the Section 3543.2 definition of scope of representation.

The responding party indicates in their answer to the charge that a unit of certificated employees has not yet been determined within the Marin Community College District, the charging party has not been certified as the exclusive representative, nor has any agreement been reached between the District and the charging

for 1977-78. EERB Representation Case File No. SF-R-140 confirms this. Notice is hereby taken of these facts.

On September 2, 1977, the Board issued its decision in San Dieguito Faculty Association v. San Dieguito Union High School District, EERB Decision No. 22. In this decision, at page 13, the Board held that the right to represent employees under Secion 3543.1(a) of the Government Code does not include a right to consult prior to the selection of an exclusive representative as to items within the list enumerated in Section 3543.2. The list enumerated in Section 3543.2 includes class size as an item for negotiation. Accordingly, under EERB precedent the respondent Marin Community College District is under no obligation to consult with the charging party as to this matter prior to their selection as exclusive representative.

If the charging party chooses to obtain a review of the dismissal, it must file an appeal with the Board itself within ten (10) calendar days after service of this Notice of 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). The appeal must be accompanied with a proof of service on the other party. See Olson v. Manteca Unified School District, EERB Decision No. 21, August 5, 1977 and EERB Regulation 35002(b) and 35007(b).

WILLIAM P. SMITH
General Counsel

By _____
MICHAEL J. TONSING
Hearing Officer

Dated: September 30, 1977