

Respondent .

August 16, 1984

The Board further concludes that Watts' complaint is vexatious and frivolous and defies the Board's Order in Los Angeles Unified School District (Watts) (2/22/82) PERB Decision No. 181a, in which we ordered Watts to cease and

desist from filing complaints that abuse the administrative processes of this Board. This case represents one of a number of frivolous complaints and appeals filed by Watts since that Order. Accordingly, we shall once again order Watts to cease and desist from such conduct and, in addition, shall order that Watts be assessed quantifiable costs, including reasonable attorneys¹ fees, incurred by the Respondent, United Professors of California, to offset the expenses and time incurred by the latter in processing and defending this complaint.

ORDER

Upon the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that the public notice complaint against the United Professors of California in Case No. LA-PN-47-H is hereby DISMISSED WITHOUT LEAVE TO AMEND.

The Board further ORDERS that Howard O. Watts CEASE and DESIST from abusing the administrative processes of the Board by filing public notice complaints which are not supported by the type of evidence which the Board has made clear is necessary to file a valid complaint, or which merely state facts or raise questions of law which the Board has previously resolved. In order to effectuate the purposes of the Educational Employment Relations Act, we ORDER that Howard O. Watts be assessed quantifiable costs incurred by the Respondent, United Professors of California, including reasonable attorneys' fees, to offset

the expenses and time incurred by the latter in processing and defending this complaint.

Written notification of the actions taken to comply with this Order shall be made to the Regional Director of the Public Employment Relations Board in accordance with his/her instructions.

Members Morgenstern and Burt joined in this Decision.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3470 Wilshire Blvd., Suite 1001
Los Angeles, California 90010
(213) 736-3127



March 1, 1983

Mr. Howard O. Watts

Re: NOTICE OF DISMISSAL
LA-PN-47-H

Dear Mr. Watts:

Your above-referenced public notice complaint was filed with our office January 31, 1983. The complaint alleges that the United Professors of California (UPC or Union), the exclusive representative of the Academic Support Services Unit at California State University (CSD), presented its initial proposal to the employer's collective bargaining subcommittee on December 30, 1982 and thus violated HEERA because a meeting of the collective bargaining subcommittee is not a public meeting of the higher education employer pursuant to section 3595(a) of the Act.

The complaint fails to assert why a meeting of the collective bargaining subcommittee should not be considered a public meeting of the higher education employer. However, for the reasons which follow, it is unnecessary to reach this issue in order to conclude that UPC could not have violated the Act under the facts alleged in the complaint.

HEERA section 3595(a) provides as follows:

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

With the exception of the definition of employer, this section of the HEERA is identical to section 3547(a) of the Educational Employment Relations Act (see California Government Code section 3547(a)).

Interpreting Government Code section 3547(a), PERB said in Kimmitt v. Los Angeles Community College District and

California School Employees Association, Chapter 507 (3/3/81)
PERB Dec. No. 158 that:

The preparation of the agenda for public meetings and the conduct of such meetings are the province of the [the employer] and under its control. While an employee organization may request that its proposals be placed on the agenda of the public meeting, it is the [employer's] obligation and responsibility to provide proper public notice and to present all initial proposals--its own as well as those of the exclusive representative--to the public at an appropriate meeting.

Id., at pp. 3-4.

The complaint admits that the union made its presentation in accordance with the employer's policy. Even assuming, without deciding, that a meeting of the collective bargaining subcommittee is not a public meeting of the higher education employer, as discussed above the exclusive representative has no authority to dictate to the employer at which type of meeting the initial proposal may be presented. UPC therefore could not be, found to violate section 3595(a) even if the complaint, could be amended to successfully allege why the collective bargaining subcommittee is not a public meeting of the higher education employer.

Case number LA-PN-48-H, filed with our office on February 11, 1983, makes this same allegation against CSU. Given the PERB's rationale in Kimmett, supra, the proper respondent for this allegation is the employer only. I will make a determination on this legal issue in the processing of that case.

The instant complaint does not presently state a prima facie violation of EERA section 3595(a). It cannot be amended to do so. The complaint is therefore hereby DISMISSED WITHOUT LEAVE - TO AMEND.

An appeal of this decision pursuant to PERB Regulations 32350 through 32380 may be made within 10 calendar days following the date of service of this decision by filing an original and 5 copies of a statement of the facts upon which the appeal is based with the Board itself at 1031 18th Street, Suite 200, Sacramento, California 95814. Copies of any appeal must be

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concurrently served upon all parties and the Los Angeles Regional Office. Proof of service pursuant to Regulation 32140 is required.

Very truly yours,

Frances A. Kreiling
Regional Director

Robert R. Bergeson
Sr. Regional Representative

cc: Stewart Long, UPC (informational)
Mayer Chapman, CSU (informational)