

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



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|----------------------------|---|-----------------------|
| HOWARD O. WATTS, |) | |
| |) | |
| Complainant, |) | Case No. LA-PN-85 |
| |) | |
| v. |) | PERB Decision No. 494 |
| |) | |
| LOS ANGELES UNIFIED SCHOOL |) | March 14, 1985 |
| DISTRICT, |) | |
| |) | |
| Respondent. |) | |

Appearance: Howard O. Watts, on his own behalf.

Before Hesse, Chairperson; Jaeger, Morgenstern and Burt,
Members.

DECISION

This case is before the Public Employment Relations Board on an appeal by Howard O. Watts of the Board agent's dismissal, attached hereto, of his public notice complaint alleging that the Los Angeles Unified School District violated section 3547(b) of the Educational Employment Relations Act (Gov. Code sec. 3540 et seq.).

We have reviewed the Board agent's dismissal in light of the appeal and, finding it free from error, adopt it as the Decision of the Board itself.

ORDER

The public notice complaint in Case No. LA-PN-85 is
DISMISSED WITHOUT LEAVE TO AMEND.

By the Board

PUBLIC EMPLOYMENT RELATIONS BOARD

LOS ANGELES REGIONAL OFFICE
70 WILSHIRE BLVD., SUITE 1001
LOS ANGELES, CALIFORNIA 90010
(213) 736-3127



November 2, 1984

Mr. Howard O. Watts

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Re: Notice of Dismissal - LA-PN-85
Watts v. Los Angeles Unified School District

Dear Mr. Watts:

Your above-captioned public notice complaint was filed with our office on July 18, 1984. On September 13, 1984 I advised you through a Notice of Deficiency that your complaint had not established a prima facie violation of Government Code 3547(b), as you had alleged. On October 2, 1984, you filed a First Amended complaint. The basis of both the original and amended complaint is that the Los Angeles Unified School District, (LAUSD or District), limited the public's ability to address proposals of the District and employee organizations representing units, A, B, C, D, E and teachers, by restricting response time to three minutes at the public meetings of the employer. You allege that these restrictions occurred at meetings of June 18, 25, July 2, and 9, 1984; when you appeared and spoke for three minutes at each meeting but were denied extensions of time to further express yourself by the President of the Board of Education. You argue that the voluminous length of some of the proposals required that LAUSD grant more than three minutes to the public in order that it adequately express itself. Your amendment alleges that the District restricted public speaking through action it took on October 31, 1977 by cutting response time from five to three minutes. (You allege that this action was not official.)

The PERB in its decision of LA-PN-42, Watts v. Los Angeles Unified School District (PERB Decision No. 405, September 13, 1984), upheld the Regional Director's dismissal of your allegation that LAUSD violated 3547(b) of EERA by limiting the public's opportunity to address collective bargaining proposals to three minutes at Board meeting. The Regional Director's rationale in dismissing the allegation is found at p.8 of her Decision:

Mr. Watts did not speak entirely to the merits of the District's and union's initial proposals. Rather, the tapes submitted by the Complainant indicate that he expended his three minutes at the June 21 meeting criticizing the manner in which LAUSD publicized its initial proposals and the failure of District officials to cooperate with him. He used none of that time to express his opinion of the merits of the collective bargaining proposals.

Similarly, as I pointed out to you in my September 13, 1984 Notice of Deficiency, the tapes which I listened to at the Board offices and the tape which you provided, point to the fact that you expended your three minutes at each of the four meetings of June 18, 25, July 2 and 9, 1984 reading the proposals out loud, complaining that you couldn't finish commenting within three minutes, or identifying which proposal pertained to which unit. Only for a few seconds at the June 25, 1984 meeting did you choose to speak to the subject of one of the proposals (You advocated that the membership reject the CSEA proposals for agency shop provisions in their contracts.)

As discussed above and in our meetings of September 28, October 5, and October 19, 1984, the PERB has already ruled on a public notice complaint against this same district which alleged a similar violation, (PERB Dec. No. 405). In the instant case, you have again chosen not to address the merits of the proposals during the full amount of time allotted to you. This allegation therefore fails as did your similar allegation in LA-PN-42.

The allegation in your amended complaint as to the District's unofficial reduction of public response time from five to three minutes refers to the date of October 31, 1977 as the effective date of said reduction. PERB Regulation 32910 requires that "[t]he complaint shall be filed no later than 30 days subsequent to the date when conduct alleged to be a violation was known or reasonably could have been discovered." As a regular attendant of LAUSD Board meetings you clearly had knowledge of this change in policy prior to October 2, 1984. Therefore, this allegation is found to be untimely.

The instant complaint does not state a prima facie violation of EERA section 3547 and cannot be amended to do so. This complaint is hereby DISMISSED WITHOUT LEAVE TO AMEND.

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On July 27, 1984 you filed a request for assistance pursuant to Regulation 32163. As I indicated to you in meetings in August, September and October, 1984 there are no technical flaws which I could help you perfect. Your request for legal assistance is hereby DENIED pursuant to Board Decisions No. 186, Watts v. Los Angeles Community College District (12/15/81); No. 181a, Watts v. Los Angeles Unified School District and California School Employees Association (2/22/82); and No. 396-H, Watts v. Los Angeles Unified School District, et al. (8/6/84).

An appeal of this decision pursuant to PERB Regulation 32925 may be made within 20 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 concurrently served upon all parties and the Los Angeles Regional Office. Proof of service pursuant to Regulation 32140 is required.

Sincerely,

Frances A. Kreiling
Regional Director

Roger Smith
Labor Relations Specialist

RS/gml

cc: Roger Johnson