

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



TOMMIE R. DEES,	)	
	)	
Charging Party,	)	Case No. SF-CO-5-H
	)	
v.	)	PERB Decision No.496-H
	)	
CALIFORNIA STATE EMPLOYEES'	)	March 14, 1985
ASSOCIATION,	)	
	)	
Respondent.	)	
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Appearance: Tommie R. Dees, on his own behalf.

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

DECISION

This case is before the Public Employment Relations Board on appeal by charging party of the Board agent's dismissal, attached hereto, of his charge alleging that the California State Employees' Association violated section 3571.1 of the Higher Education Employer-Employee Relations Act (Gov. Code sec. 3560 et seq.).

We have reviewed the dismissal and, finding it free from error, adopt it as the Decision of the Board itself.

ORDER

The unfair practice charge in Case No. SF-CO-5-H is  
DISMISSED WITHOUT LEAVE TO AMEND.

By the BOARD

## PUBLIC EMPLOYMENT RELATIONS BOARD

Headquarters Office

1031 18th Street

Sacramento, California 95814

(916) 322-3088



September 5, 1984

Tommie R. Dees  
21569 Princeton Street  
Hayward, CA 94541

Marilyn Sardonis  
Relations Representative  
California State Employees Association  
160 Franklin Street, Suite 302  
Oakland, CA 94607

Re: Tommie R. Dees v. California State Employees Association  
Unfair Practice Charge No. SF-CO-5-H; DISMISSAL OF UNFAIR  
PRACTICE CHARGE AND REFUSAL TO ISSUE COMPLAINT.

Pursuant to Public Employment Relations Board (PERB or Board) Regulation section 32630, the above-entitled matter is hereby dismissed because it fails to allege facts sufficient to state a prima facie violation of the Higher Employer-Employee Relations Act (HEERA or Act).<sup>1</sup> The reasoning which underlies this dismissal follows.

<sup>1</sup>The HEERA is codified at Government Code section 3560, et seq., and is administered by PERB. Unless otherwise indicated, all statutory references in this dismissal are to the Government Code. HEERA section 3571.1 provides that it shall be unlawful for an employee organization to:

(a) Cause or attempt to cause the higher education employer to violate Section 3571.

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(c) Refuse or fail to engage in meeting and

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 2

### Procedural Background

On May 21, 1984, Tommie R. Dees (Charging Party) filed an unfair practice charge against the California State Employees Association (Association or CSEA) alleging violation of HEERA section 3571.1. During the six months preceding the filing of this charge, Charging Party alleges several incidents to have occurred which gave rise to meritorious grievances, requests by him directed to CSEA representatives that the matters be grieved, and failure and/or refusal by such representatives to pursue the grievance to arbitration or to adequately represent Charging Party during the grievance procedure because CSEA and Charging Party's employer, California State University at Hayward (CSU), are in collusion against him.

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conferring with the higher education employer.

(d) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).

(e) Fail to represent fairly and impartially all the employees in the unit for which it is the exclusive representative.

(f) Require of employees covered by a memorandum of understanding to which it is a party the payment of a fee, as a condition precedent to becoming a member of such organization, in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of employee organizations in higher education, and the wages currently paid to the employees affected.

(g) Cause, or attempt to cause, an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or are not to be performed.

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 3

On August 2, 1984, the General Counsel's Office of PERB wrote a letter to Charging Party pointing out the deficiencies of the unfair practice charge filed against CSEA. More specifically, I informed the Charging Party that if there were any factual inaccuracies or additional facts which would correct the deficiencies explained in that letter, Charging Party should amend the charge accordingly. (This letter is labelled Exhibit 1 and is attached hereto.)

Thereafter, the Charging Party filed a First Amended Charge on August 21, 1984 which essentially incorporated the facts and allegations contained in the original unfair practice charge and included some new facts, allegations and conclusory assertions.

#### Facts

My investigation revealed the following facts: Charging Party is employed at the California State University, Hayward (CSU) as a groundsperson. Charging Party describes several incidents which, in his opinion, show that CSEA has not adequately represented him/or has refused to represent him in the grievance procedure.

1. Charging Party alleges that the union negligently decided on June 3, 1983 to file a grievance on behalf of Charging Party on only two of his allegations.<sup>2</sup> The two allegations were that (1) Charging Party was given a

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<sup>2</sup>On June 3, 1983, CSEA did not file a grievance on the following allegations by Charging Party, although these issues were the subjects of later grievances according to the documents submitted by Charging Party.

- a. Physical threat by Charging Party's supervisor. CSEA determined that the verbal statement that supervisor "would like to drill you" means according to American Heritage Dictionary that he would like "to train by repetition." According to CSEA, this does not constitute physical threat to Charging Party; thus, no grievance was filed at this time. Subsequently, on June 10,

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 4

permanent shift change without the required 21-day notice and, (2) Charging Party was called back to work on an off-day and was only given one hour backpay instead of four hours backpay as required by the contract. CSEA won this grievance at Level I for the Charging Party on or about June 20, 1983.

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1983, CSEA filed a grievance on behalf of Charging Party on this issue.

- b. Charging Party wanted to return to working weekends. According to CSEA, management had the right to assign work schedules. According to CSEA, Charging Party's personal preference was not a valid requirement for forcing management to change its shift. CSEA advised Charging Party to submit a shift change by writing a request to supervisor for his consideration.
- c. Charging Party requested that management give all orders to him in writing. According to CSEA, this was not a valid request; management may give verbal orders.
- d. Charging Party requested that management cease harassing him, but according to CSEA Charging Party could not show harassment other than normal supervisory functions. CSEA advised Charging Party that if he was able to prove harassment, then CSEA would be prepared to represent him. Charging Party claimed that his supervisors were harassing him because they gave him supervisory and instructional orders. Charging Party wanted to receive all orders and instructions from his leadperson rather than his supervisors.
- e. Charging Party demanded that management make full disclosure of their management

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 5

2. CSEA filed a grievance on behalf of Charging Party on June 10, 1983 on the following issues:
- a. 4/27/83 - Mario Ruiz (supervisor) threatened Charging Party by stating: "I'd like to drill you."
  - b. 4/21/83 - Charging Party was forced to work under unsafe conditions on Harder Road because he wanted an entire lane closed. Charging Party received the following award: CSU adopted new procedures to provide an added measure of safety by providing "visibility vests" to employees whenever they worked adjacent to a roadway in addition to the placing of cones beside the curb.
  - c. 4/25/83 - Letter of Warning based on untrue allegations violated Charging Party's contract rights, and it did not follow proper disciplinary procedures.
  - d. 4/20/83 - A disciplinary meeting was held with CSU and Charging Party without Charging Party's representative present.

All of these grievances (except b., above) were denied by CSU on October 17, 1983 at Level III.

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meetings to him. According to CSEA, this was neither his right, nor the union's right.

- f. Charging Party demanded that management give advance notice prior to checking on his work performance. According to CSEA, management had the right to check work performance whenever deemed necessary without prior notice.
- g. Finally, CSEA indicated that it was still investigating Charging Party's complaints about insufficient break and lunch periods.

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 6

3. On July 28, 1983, CSEA filed a grievance on behalf of Charging Party on the following issues:
  - a. On June 24, 1983, Charging Party had his first level hearing on a grievance filed against Mr. Ruiz (supervisor) for physically threatening Charging Party. On his way back to his area after the first level hearing, Mr. Rodriguez (supervisor) ordered the Leadperson "to write Charging Party up" for being out of his area.
  - b. On June 27, 1983, Charging Party was on his regularly scheduled break at 1:35 p.m. Mr. Rodriguez (supervisor) saw him and demanded to know why he was out of his area. He then threatened to "write Charging Party up" for insubordination and being out of his area.
  - c. On July 16, 1983, Mr. Ruiz (supervisor) gave Charging Party a work assignment which was in direct violation of his assignment from his Leadperson. Further, a memo from Rodriguez to Ruiz on July 13, 1983, articulated the policy by which Grounds Supervisors were to communicate with Groundswokers, only through the Leadpersons. The assignment which was given to Charging Party was impossible and unsafe; it consisted of planting roses, weeding and raking leaves alongside the parking lot located by the Administration Building.

Charging Party alleges that CSEA failed to include an allegation to the effect that on or about July 27, 1984 Mr. Rodriguez (supervisor) chased him through Plant Operations inside the office while Charging Party was signing out to go see the doctor.<sup>3</sup>

4. On or about October 17, 1983, CSU denied Charging Party's grievance at Level III (described in 2, above), and the CSEA representative determined within 14 days not to take

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<sup>3</sup>On or about April 16, 1984, CSEA representative, Marilyn Sardonis, filed a grievance on this allegation as an act of reprisal by CSU against Charging Party. (See Exhibit 2, paragraph 19, attached hereto.)

it to arbitration.<sup>4</sup> Nevertheless, Charging Party and his union representative (Gale Pemberton) were allowed to present Charging Party's case to the CSEA Arbitration Panel on or about November 12, 1983 wherein they argued that the case should go to arbitration. The panel decided not to go to arbitration on the grievances mentioned in item 2 above, because the allegations were not meritorious, but Charging Party received assurances that CSEA would file on some of his other allegations on the basis of reprisal by CSU. Charging Party contends that they should have gone to an arbitration hearing and that CSEA failed to comply with the 14-day time limitation.

5. On November 3, 1983, Marilyn Sardonis (CSEA representative) filed a grievance on behalf of Charging Party seeking to have 44 hours of leave without pay converted to sick leave in addition to restoration of all benefits. Charging Party won this grievance on or about January 11, 1984 at Level II.
6. On December 7, 1983, Marilyn Sardonis (CSEA representative) filed a Level I grievance on behalf of Charging Party alleging that Charging Party's transfer to the Science Building was a reprisal for his exercise of protected activity. She also alleged that the transfer was dangerous to Charging Party's health. This Level I grievance was denied by Mr. Farley, Plant Operation Director for CSU, on or about February 21, 1984.
7. On February 28, 1984, Marilyn Sardonis (CSEA representative) elevated the grievance in item 6 above, to Level II. This Level II grievance was denied by Mr. Robert Kennelly, Administrative Vice-President for CSU, on March 28, 1984.
8. On February 29, 1984, Marilyn Sardonis (CSEA representative) wrote a letter to Mr. Slade Lindeman, Personnel Officer for CSU, requesting that Charging Party's State Compensation Insurance Fund material be removed from

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<sup>4</sup>CSEA claims that there is a side letter with CSU which allows CSEA 30 days in which to seek arbitration after receiving the Level III response.



Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 8

Charging Party's personnel file and be placed in a separate file to ensure confidentiality. CSU refused to set up a separate file.

9. On April 16, 1984, Marilyn Sardonis (CSEA representative) filed a Level III grievance on behalf of Charging Party alleging 38 incidents by CSU which are a form of reprisal, harassment and intimidation against Charging Party.<sup>5</sup> CSEA has not proceeded any further on this Level III grievance because Charging Party has asked them to stop. Nevertheless, Charging Party alleges that he has received no decision regarding this Level III grievance. (This Level III grievance is labelled Exhibit 2, and it is attached hereto.)

#### Discussion

Charging Party has alleged that CSEA violated his section 3578<sup>6</sup> right to fair representation and thereby violated

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<sup>5</sup>Charging Party contends that CSEA failed to comply with Article 7, section 7.15 of the contract, which requires that all appeals to Level III be filed no later than 14 days after the Level II response. Charging Party also contends that CSEA failed to include all necessary evidence at Level II as required by the contract. CSEA counters that the appeal is timely filed because it received an oral extension of time by Laverne Diggs, and that it included all evidence at the third level which is consistent with the contract and past practices. Moreover, the contract provides in Article 7, section 7.22 that all issues and evidence must be presented at Level III in order for the arbitrator to properly consider them. Further, CSU has indicated to PERB that it is willing to process the Level III grievance, but that CSEA has not moved it along. CSEA correctly asserts that it has not pushed the Level III grievance because Charging Party has asked them to stop processing it.

<sup>6</sup>Section 3578 states:

The employee organization recognized or certified as the exclusive representative shall represent all employees in the unit,

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 9

section 3571.1(b). The fair representation duty imposed on the exclusive representative extends to contract negotiations (Redlands Teachers Association (Faeth) (9/25/78) PERB Decision No. 72; SEIU, Local 99 (Kimmett) (1/19/79) PERB Decision No. 106; Rocklin Teachers Professional Association (Romero) (3/26/80) PERB Decision No. 124; El Centro Elementary Teachers Association (Willis) (8/11/82) PERB Decision No. 232); contract administration (Castro Valley Teachers Association (McElwain) (12/17/80) PERB Decision No. 149; SEIU Local 99 (Pottorff) (3/30/82) PERB Decision No. 203) and grievance handling (Fremont Teachers Association (King) (4/21/80) PERB Decision No. 125; United Teachers of Los Angeles (Collins) (11/17/82) PERB Decision No. 258).

PERB has ruled that a prima facie statement of such a violation requires allegations that: (1) the acts complained of were undertaken by the organization in its capacity as the exclusive representative of all unit employees; and (2) the representational conduct was arbitrary, discriminatory, or in bad faith.<sup>7</sup>

With regard to the allegation that CSEA failed to proceed to arbitration, PERB has held that an employee does not have an absolute right to have a grievance taken to arbitration. An exclusive representative's reasonable refusal to proceed with arbitration is essential to the operation of a grievance and arbitration system. (Castro Valley Unified School District (12/17/80) PERB Decision No. 149; Los Angeles Unified School District (5/20/83) PERB Decision No. 311.)

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fairly and impartially. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

<sup>7</sup>PERB explicitly has followed decisions of the federal courts and the National Labor Relations Board interpreting the National Labor Relations Act duty of fair representation (Fire Fighters Union v. City of Vallejo (1974) 12 Cal.3d 608 [116 Cal.Rptr. 507]); and see Kimmett, supra, PERB Decision No. 106 at fn. 7).

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 10

First, allegations 1, 2, 3 and 4 will be dismissed because they occurred more than six months prior to the filing of this charge before the PERB. Government Code section 3563.2(a) states that PERB cannot issue a complaint in respect of any charge based upon an alleged unfair occurring more than six months prior to the filing of the charge.

Secondly, the facts in this case (set forth in allegations 5-9, above) do not state a prima facie violation of HEERA section 3571.1(b) or a case of collusion between CSEA and CSU against Charging Party. CSEA did consider whether to submit Charging Party's first grievance to arbitration and determined that it was not meritorious. There is no evidence that the Association's conduct was arbitrary, discriminatory or in bad faith. The other grievances (Exhibit 2) have not been advanced to arbitration because Charging Party has requested that they not proceed with those grievances. Finally, the evidence indicates that the Association filed a grievance on every one of Charging Party's disputes with CSU.

Pursuant to Public Employment Relations Board regulation section 32635 (California Administrative Code, title 8, part III), you may appeal the refusal to issue a complaint (dismissal) to the Board itself.

#### Right to Appeal

You may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal (section 32635(a)). To be timely filed, the original and five (5) copies of such appeal must be actually received by the Board itself before the close of business (5:00 p.m.) on September 25, 1984, or sent by telegraph or certified United States mail postmarked not later than September 25, 1984 (section 32135). The Board's address is:

Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95814

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five (5) copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal (section 32635(b)).

Tommie R. Dees  
Marilyn Sardonis  
September 5, 1984  
Page 11

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany the document filed with the Board itself (see section 32140 for the required contents and a sample form). The document will be considered properly "served" when personally delivered or deposited in the first-class mail postage paid and properly addressed.

Extension of Time

A request for an extension of time in which to file a document with the Board itself must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party (section 32132).

Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Very truly yours,

DENNIS M. SULLIVAN  
General Counsel

By Emily E. Vasquez  
Emily E. Vasquez  
Staff Attorney

## PUBLIC EMPLOYMENT RELATIONS BOARD

Headquarters Office

3031 13th Street

Sacramento, California 95814

(6) 322-3088



August 2, 1984

Tommie R. Dees  
21569 Princeton St.  
Hayward, CA 94541

Re: Tommie R. Dees v. California State Employees Association,  
Unfair Labor Practice Charge No. SF-CO-5-H

Dear Mr. Dees:

On May 21, 1984, Tommie R. Dees (Charging Party) filed an unfair practice charge against the California State Employees Association (CSEA) alleging violation of HEERA section 3571.1. More specifically, Charging Party alleges the following. Charging Party is employed at the California State University, Hayward (CSU) as a groundsperson. During the six months preceding the filing of this charge, Charging Party alleges several incidents to have occurred which gave rise to meritorious grievances, requests by him directed to CSEA representatives that the matters be grieved, and failure and/or refusal by such representatives to pursue the grievance to arbitration or to adequately represent Charging Party during the grievance procedure.

Charging Party describes several events which, in his opinion, showed that CSEA has not adequately represented him in the grievance procedure. Charging Party alleges that CSEA failed to notify the Chancellor's office at CSU, Hayward in writing within 14 days from the date the union received the level III denial of grievance and has refused to go forward with arbitration. Charging Party additionally argues that CSEA is not vigorously prosecuting his grievances concerning his transfer and reprisals beyond the level III grievance step to arbitration.

My investigation reveals that the Association has filed a grievance on behalf of the Charging Party concerning every dispute with CSU. Additionally, the Association did consider whether to submit Charging Party's first grievance to arbitration and determined that it was not meritorious. The other grievances have not been advanced to arbitration because Charging Party has requested that they not proceed with those grievances.

Charging Party has alleged that CSEA violated his section 3578 right to fair representation and thereby violated section 3571.1(b).1 The fair representation duty imposed on the exclusive representative extends to contract negotiations (Redlands Teachers Association (Faeth) 9/25/78) PERB Decision No. 72; SEIU, Local 99 (Kimmett) (1/19/79) PERB Decision No. 106; Rocklin Teachers Professional Association (Romero) 3/26/80 PERB Decision No. 124; El Centro Elementary Teachers Association (Willis) (8/11/82) PERB Decision No. 232), contract administration Castro Valley Teachers Association (McElwain) (12/17/80) PERB Decision No. 149; SEIU Local 99 (Pottorff) (3/30/82) PERB Decision No. 203) and grievance handling (Fremont Teachers Association (King) (4/21/80) PERB Decision No. 125; United Teachers of Los Angeles (Collins) (11/17/82) PERB Decision No. 258).

PERB has ruled that a prima facie statement of such a violation requires allegations that: (1) the acts complained of were undertaken by the organization in its capacity as the exclusive representative of all unit employees; and (2) the representational conduct was arbitrary, discriminatory, or in bad faith.2

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<sup>1</sup>Section 3578 states:

The employee organization recognized or certified as the exclusive representative shall represent all employees in the unit, fairly and impartially. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

Section 3571.1(b) states that it shall be unlawful for an employee organization to:

Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

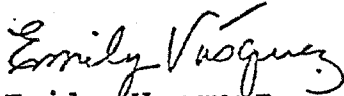
<sup>2</sup>PERB explicitly has followed decisions of the federal courts and the National Labor Relations Board interpreting the National Labor Relations Act duty of fair representation (Fire

Tommie R. Dees  
August 2, 1984  
Page 3

The charge, as presently set forth, does not state a prima facie violation of HEERA section 3571.1(b). First, there is no allegation that the Association's conduct was arbitrary, discriminatory or in bad faith. Second, the charge indicates that the Association filed a grievance on every one of Mr. Dee's disputes with CSU. (See PERB Rule 32615.3)

If you feel that there are facts which would correct the deficiencies explained above, please amend the charge accordingly. The amended charge should be prepared on a standard PERB unfair practice charge form clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the Charging Party. Please be sure to indicate the PERB charge number. The amended charge must be served on the Respondent and the original proof of service must be filed with PERB. If I do not receive an amended charge or withdrawal from you before August 10, 1984, I shall dismiss your charge. If you have any questions on how to proceed, please call me at (916) 323-8015.

Sincerely yours,

  
Emily Vasquez  
Staff Attorney

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Fighters Union v. City of Vallejo (1974) 12 Cal.3d 608 [116 Cal.Rptr. 507]; and see Kimmett, supra, PERB Decision No. 106 at fn. 7).

3PERB Rule 32615 states in pertinent part:

(a) A charge may be filed alleging that an unfair practice or practices have been committed. The charge shall be in writing, signed under penalty of perjury by the party or its agent with the declaration that the charge is true and complete to the best of the charging party's knowledge and belief, and contain the following information:

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# CALIFORNIA STATE EMPLOYEES' ASSOCIATION

160 FRANKLIN ST., SUITE 302

OAKLAND, CA. 94607

PHONE (415) 835-1900

April 16, 1984

REPRESENTING

*the people who serve the people*

Laverne Diggs.  
Labor Relations Specialist  
Employee Relations Division  
Office of the Chancellor  
California State University & Colleges-  
400 Golden Shore  
Long Beach, California 90802

Dear Ms. Diggs:

The enclosed grievance, on behalf of Tommie Dees is being elevated to your third level of review. As with the other Tommie Dees grievance, this case is ongoing and all of the grievance was not returned to CSEA by the second level so CSEA is enclosing all the evidence regarding this case to you. CSEA wishes to discuss all the ramifications that this case has on Mr. Dees' employment with the university.

Sincerely,

Marilyn Sardonis  
Labor Relations Representative

cc: ✓ Tommie Dees  
Roger Merideth

lk

Exhibit 2



THE CALIFORNIA STATE UNIVERSITY  
GRIEVANCE FORM  
UNIT 5 - UNIT 7

LEVEL OF FILING

Level I - Appropriate Administrator ☐

Level II - President ☐

Level III - Employee Relations Division,  
Office of the Chancellor ☒

DATE April 16, 1984

CAMPUS Hayward

DEPARTMENT Grounds Department

BARGAINING UNIT 5

APPROPRIATE  
ADMINISTRATOR Laverne Diggs

CLASSIFICATION

CAMPUS TELEPHONE NUMBER

Tommie Dees

Groundsworker

Term of agreement alleged violated (contract provision number)

5.14, and any other section that may apply  
Detailed description of the grounds of the grievance (include dates)

Please see attached pages.

If more space is needed, additional sheets may be attached.)  
Proposed remedy:

1. Cease and desist all reprisals.
2. Mr. Dees be reinstated in a safe area with back pay and benefits, i.e. to make whole again.
3. Mr. Dees be placed on retroactive paid Administrative Leave, which would be appropriate, rather than sick leave, which is for Administrative convenience.

Grievant's signature

Name of representative CSEA: Marilyn Sardonis, Field Representative

Name and address of union California State Employees' Association  
160 Franklin Street, Suite 302; Oakland, California 94607

Sponsor:

LEVEL I ☐

LEVEL II ☐

LEVEL III ☐

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Since Mr. Tommie Dees has filed a grievance on June 3, 1983, he has been the target of systematic and unremitting reprisals by the University for his exercising his rights guaranteed by the Agreement between the University and CSEA. The forms of these reprisals have been numerous and would be of no purpose to list each and every example at this time although CSEA is prepared to do so. CSEA cites the following as examples of these reprisals. They follow the grievance filed on June 3, 1983 (and was won) which caused Mr. Rodriguez much consternation.

1. On June 7, 1983, Tony Rodriguez was seen keeping Mr. Dees under personal observation, rather than allowing his leadworker or supervisor to do their normal work duties. This type of reprisal continued on a regular basis until Mr. Dees was forced to take sick leave.
2. On June 24, 1983, Mr. Dees had a grievance meeting regarding a physical threat made by Mr. Ruiz against Mr. Dees, and was written up by Mr. Rodriguez for being out of his area.
3. On June 27, 1983, Mr. Dees was on his regularly scheduled break at 1:35 p.m. Mr. Rodriguez saw him and demanded to know why he was out of his area. He chased Mr. Dees and threatened to write him up for insubordination and being out of his area.
4. Mr. Dees was given confusing and contradictory instructions from Mr. Rodriguez after being given work instructions from his leadperson. These instructions were also unsafe at times thus placing Mr. Dees in physical danger.
5. Mr. Rodriguez ignores not only Mr. Dees' safety concerns, but he also ignores the problems with clean drinking water and bathroom facilities for Mr. Dees.
6. Mr. Dees was transferred, as a reprisal, into an area which he considers unsafe and that he is in danger. His doctor concurs with this statement.
7. Mr. Dees received "A" time instead of sick leave as a reprisal even though Mr. Dees called in sick in October, 1983.

8. As part of the reprisal, management demands more and more medical information from Mr. Dees' physician even though the physician states that Mr. Dees is capable and able and ready to work.

9. Letter from management on November 16, 1983, was delivered to Mr. Dees informing him that he could not return to work and would be on required medical leave. This letter was delivered to Mr. Dees' home by his good friend and leadworker without their knowledge and consent. They were ordered to leave the University to deliver the letter. The normal methods of sending communications to employees were not used for Mr. Dees.

10. On July 28, 1983, Mario Ruiz broke University policy of July 13, 1983, to go through leadperson; instead he gave direct instructions to Mr. Dees which contradicted instructions from his leadperson, which was the reason for the policy; to provide consistent instructions.

11. After Mr. Dees won a grievance filed by CSEA on failure to give 21 days notice of shift change, he was returned to his old shift for exactly 21 days, then transferred again. This was to subvert the intent of the notice for change of the June 3, 1983 grievance.

12. Mr. Dees was given 1 hour call back pay. Grievance filed by CSEA on June 3, 1983 and won which gave Mr. Dees four and one-half hours call back pay.

13. Tony Rodriguez told Margaret Dufrense he was going to circulate a petition banning Mr. Dees from all other grounds meetings because he was a disturbance.

14. Mario Ruiz told Harry Hara that "they" (management) were planning to ban Mr. Dees from all future grounds meetings.

15. On June, 1983, Joe Camacho witnessed an incident where Mario Ruiz yelled at Mr. Dees from a truck rudely and childishly "cat got your tongue" Mr. Camacho.

16. On June 7, 1983, Tony Rodriguez inspected Mr. Dees' area and said that the area had to be corrected by June 10, 1983. Since Mr. Dees was scheduled to go on vacation and there was not enough time to complete the assignment and he was given another job by his leadworker. Mr. Dees was on vacation on June 10, 1983, and on June 13, 1983, his area was reinspected while Tommie was on vacation and without his leadworker being present who could explain that Mr. Dees did not have enough time to complete the assignment.

and that he was given another job to do. The leadworker's opinion that the area was not that bad nor was it unsatisfactory. If the area was that bad, other employees should have been brought in to help clean it.

On June 21, 1983, another memo stating that the area still was unsatisfactory even though Mr. Dees had just returned from vacation. From original memo of June 7, 1983, Mr. Dees only worked 4 days and he was threatened with disciplinary action while part of that time was spent at the badminton court.

On June 29, 1983, Mr. Sarmiento and Mr. Dees went through Mr. Dees' area and proved that area was satisfactory.

17. On June 24, 1983, Mr. Dees receives a write-up for being out of area during a grievance hearing. Mr. Dees was coming back from previously scheduled grievance hearing. The meeting ended at 12:00 p.m. and was at Plant Operation and he had to get back to his area in order to take lunch. He didn't get back to area until 12:30 because he was in meeting with Steward Gale Pemberton after grievance meeting.

18. On or about June 6, 1983, Mr. Dees submitted a campus police report of the threats by his immediate supervisor, Mario Ruiz, causing much anger on the part of management and exacerbated the continuing harassment.

19. On July 27, 1983, Tony Rodriguez chased Mr. Dees through Plant Operations inside the office while Mr. Dees was signing out to go see the doctor. Both Edith and Juanita Barnes witnessed the incident. Juanita got the log from Mr. Rodriguez's office for Tommie to sign. Mr. Sarmiento knew of Mr. Dees' doctor's appointment.

20. On July 16, 1983, Mr. Rodriguez gave Mr. Dees a work assignment from Mr. Ruiz, which was inconsistent with the instructions from Mr. Sarmiento and a violation of the July 13, 1983, memo from Mr. Ruiz stating that instructions should come from leadworker. The instructions should come from leadperson.

21. Leadworker Tante Sarmiento documents that favoritism was within the grounds department and that Tommie, Loren and Sam were singled out because they were not liked.

22. On October 11, 1983, Laverne Diggs from the Chancellors Office Labor Relations walked out of Level 3 grievance meeting while Mr. Dees was still giving evidence over the objection of Steward Gale Pemberton and over Mr. Dees' objection.

23. In October of 1983, Tony Rodriguez chased and intimidated Mr. Dees while he was on break and was witnessed by 2 students (statements attached). The ostensible reason for Mr. Rodriguez being in the area was that Mr. Rodriguez was looking for Sam Walton to give him a message from home, but when Mr. Walton called home, no one knew of any message.

24. On October 11, 1983, Tommie Dees had a reprisal transfer from a safe area to an unsafe area as management well knew. Transfer was effective October 18, 1983.

25. On October 18, 1983, Tommie Dees was placed on medical leave by his doctor due to stress of new work site from October 11, 1983 transfer. Medical leave was involuntary on Mr. Dees' part and was treated as a medical problem. Employer knew that Mr. Dees was on medical leave, yet Mr. Dees was placed on "A" time which was subsequently changed to sick leave after a grievance filed by CSEA. The reason for the leave was medical exhaustion.

Mr. Rodriguez acknowledged at the October 27, 1983, staff meeting that he had forgotten that he was told of Mr. Dees' absence; yet management went through second level before granting grievance.

26. On October 26, 1983, Mr. Dees was officially placed on "A" time which was a direct reprisal.

27. The minutes of the ground workers' meeting on October 17, 1983, with Tony Rodriguez, contained numerous contractual violations and were subsequently withdrawn due to union intervention, were given to Mr. Dees by grounds secretary and signed. After meeting with union, Mr. Rodriguez was accused of stealing 2 copies. Tommie had one of the only copies of a policy that Mr. Rodriguez tried unsuccessfully to unilaterally implement and was forced to withdraw. The fact that Tommie still has a copy made Mr. Rodriguez angry.

28. On October 29, 1983, Jim Buckley told Tommie Dees in front of 2 of Mr. Buckley's co-workers to "go to hell" because Mr. Dees allegedly called Mr. Buckley a "liar" in front of a newspaper reporter. This is typical of management's attitude toward Mr. Dees for quite some time and

still exists. Mr. Dees asked Mr. Buckley not to be transferred to a new area.

29. On October 31, 1983, Jim Buckley denied Mr. Dees' request to return to previous assignment.

30. On October 21, 1983, November 1, 1983, and November 11, 1983, Mr. Dees was forced to provide medical information repeatedly, which all explains the same things, that Tommie Dees can work. His only limitation is that it be a reasonably secure area.

31. Laverne Diggs denied grievance after walking out of grievance hearing.

32. Mr. Dees was off on medical leave from November 1, 1983, to November 8, 1983, because of stress and the employer had knowledge of Mr. Dees' stressful condition and on November 10, 1983, Tony Rodriguez and Mario Ruiz provoked and exacerbated this stressful situation by sneaking up behind Tommie and forcing more stress on him. They subsequently laughed at Mr. Dees when he reacted to their knowing attempt to upset him.

33. On November 11, 1983, Tony Rodriguez wrote a memo stating that he and Mario Ruiz couldn't work with Tommie Dees. Mr. Rodriguez's statement that Tommie Dees refuses to accept any form of communication from either Mr. Rodriguez or Mr. Ruiz is not a true statement. Mr. Rodriguez also requested that Mr. Dees be placed on leave.

34. On November 10, 1983, Mr. Dees was again placed on medical leave by his treating physician following the provocation described above.

35. On November 16, 1983, the attached letter was delivered to Tommie Dees taking advantage of his friendship with co-workers which caused even more stress for Mr. Dees. Statements regarding incident are attached.

36. Reprisal exists because Mr. Dees was placed on unnecessary leave for administrative convenience and the University is aware of the financial hardship that Mr. Dees is suffering. Mr. Dees should be placed on paid administrative leave, not medical leave for this period of time, since it is solely for administrative convenience.

37. On December 13, 1983, two letters from the University were sent to Mr. Dees at the wrong address, one postmarked November 30, 1983, and the other postmarked December 12, 1983. Each letter states that a meeting is to be

held at different times, thus confusing the matter even more. When Mr. Dees got the letters, attorney Roger Meredith called Mr. Farley to get exact date and time of meetings.

38. On December 22, 1983, University management refused to meet with Tommie Dees and his union representative Marilyn Sardonis regarding the grievances as they stipulated to in the letter. At that time, Mr. Lindemon agreed to respond in writing the reason for his refusal to meet with the union regarding these grievances and to respond to Mr. Dees' letter of December 8, 1983, asking for a waiver of time limits. Mr. Lindemon has failed to respond to date.