STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA STATE EMPLOYEES' ASSOCIATION, SEIU LOCAL 1000,	)	
Charging Party,	)	Case No. LA-CE-209-H
v.	)	PERB Decision No. 777-H
CALIFORNIA STATE UNIVERSITY,	)	November 21, 1989
Respondent.	)	

Appearances: Ronald E. Almquist, Senior Labor Relations Representative, for California State Employees' Association, SEIU Local 1000; William B. Haughton, Attorney, for California State University.

Before Hesse, Chairperson; Porter and Shank, Members.

DECISION

SHANK, Member: This case is before the Public Employment Relations Board (Board) on appeal by the California State University (University) of the administrative law judge's (ALJ) attached proposed decision. The California State Employees' Association, SEIU Local 1000 (CSEA) filed an unfair practice charge alleging that the University unlawfully communicated with bargaining unit employees about a negotiable subject (salary increase and effective date) during the course of negotiations. The gravamen of CSEA's charge is that the University was obligated to meet and negotiate, under section 3571(a) and (b) of the Higher Education Employer-Employee Relations Act (HEERA or

Act),[1] and consider CSEA's position prior to direct communications with unit employees.

The University, in its post-hearing brief, contends that the statements simply describe the contents of the Governor's final budget, and are not of the type which are likely to coerce employees or otherwise interfere with the exercise of employee rights.[2]

The ALJ found that the University violated section 3571(a) and (b) of the Act by publishing statements in its newsletter, Wrap-Up, which tend to undermine the exclusive representative in the eyes of bargaining unit employees and interfere with the rights of unit employees to be represented by their exclusive representative.

The ALJ correctly recognized that HEERA protects the expression of the employer's "views, arguments, or opinions," unless such expression contains a "threat of reprisal, force, or

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[1]HEERA is codified at Government Code section 3560 et seq. Unless otherwise indicated, all statutory references are to the Government Code. Section 3565 states in relevant part:

> Higher education employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and for the purpose of meeting and conferring. . . .

[2]The University excepted generally to the ALJ's interpretation of its statements in Wrap-Up, and his resultant conclusions. We find the ALJ's interpretation and conclusions proper. Furthermore, since we find the exceptions raise no new issues from those presented by the University in its post-hearing brief, we do not address them in this decision.

promise of benefit."[3] The ALJ evaluated the statements for accuracy; (Alhambra City and High School District (1986) PERB Decision No. 560; Muroc Unified School District (1978) PERB Decision No. 80) in the context in which the statements occurred; (Los Angeles Unified School District (1988) PERB Decision No. 659) "in light of the impact that such communication had or [is] likely to have on the . . . employee who may be more susceptible to intimidation or receptive to the coercive import of the employer's message"; (Rio Hondo Community College District (1980) PERB Decision No. 128) and, in terms of the effect on the authority of the exclusive representative. (Muroc Unified School District, supra, PERB Decision No. 80.)

The ALJ found that Wrap-Up definitively stated that the University accepted the four-percent increase (at the time the salary adjustment was still on the table) and that the increase "will take effect January 1, 1988." The ALJ determined that, while the language did not assure a four-percent raise, it implied that the University had unilaterally fixed the salary

[3]Section 3571.3 states:

> The expression of any views, arguments, or opinions; or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute, or be evidence of, an unfair labor practice under any provision of this chapter, unless such expression contains a threat of reprisal, force, or promise of benefit; provided, however, that the employer shall not express a preference for one employee organization over another employee organization.

increase and unequivocally set the effective date of any raise. There is no language in Wrap-Up which can be interpreted as qualifying the statement that unit employees would receive a four-percent increase effective January 1, 1988, based on the outcome of the negotiating process.

We have reviewed the entire record in this case, including the ALJ's proposed decision, the University's exceptions and the responses thereto. We find the ALJ's findings of fact and conclusions of law to be free from prejudicial error, and adopt the proposed decision as the Decision of the Board itself.

ORDER

Upon the foregoing findings of fact, conclusions of law, and the entire record in this case, the Board finds that the California State University violated the Higher Education Employer-Employee Relations Act. It is hereby ORDERED that the California State University shall:

A. CEASE AND DESIST FROM:

1. Issuing statements in Wrap-Up or other publications during the course of negotiations which tend to interfere with the right of bargaining unit employees to be represented by the exclusive representative California State Employees' Association, SEIU Local 1000.

2. Issuing statements in Wrap-Up or other publications during the course of negotiations which tend to interfere with the right of the California State Employees' Association, SEIU Local 1000 to represent bargaining unit employees.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE HIGHER EDUCATION EMPLOYER-EMPLOYEE RELATIONS ACT:

1. Within thirty-five (35) days following the date this Decision is no longer subject to reconsideration pursuant to PERB Regulation 32410, post, at all sites and all other work locations where notices to employees are customarily placed, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the California State University Board of Trustees. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to insure that the Notice is not reduced in size, altered, defaced or covered by any other material.

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

Chairperson Hesse and Member Porter joined in this Decision.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California

After a hearing in Unfair Practice Case No. LA-CE-209-H, California State Employees' Association, SEIU Local 1000 v. California State University, in which all parties had the right to participate, it has been found that the California State University violated Government Code section 3571(a) and (b).

As a result of this conduct we have been ordered to post this Notice, and will abide by the following. We will:

CEASE AND DESIST FROM:

(1) Issuing statements in Wrap-Up or other publications during the course of negotiations which tend to interfere with the right of bargaining unit employees to be represented by the exclusive representative California State Employees' Association, SEIU Local 1000.

(2) Issuing statements in Wrap-Up or other publications during the course of negotiations which tend to interfere with the right of the California State Employees' Association, SEIU Local 1000 to represent bargaining unit employees.

Dated: California State University

By_____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED BY ANY MATERIAL.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA STATE EMPLOYEES ASSOCIATION, SEIU LOCAL 1000, Charging Party, v. CALIFORNIA STATE UNIVERSITY, Respondent.	Unfair Practice Case No. LA-CE-209-H PROPOSED DECISION (4/25/88)

Appearances; Ronald E. Almquist and Susan Kleinman for California State Employees' Association; William B. Haughton, Attorney, for The California State University.

Before: Fred D'Orazio, Administrative Law Judge.

PROCEDURAL HISTORY

This unfair practice charge was filed by the California State Employees Association, SEIU Local 1000, California State University Division, (hereafter CSEA or charging party) against the California State University (hereafter CSU or respondent) on August 7, 1987. The charge alleges, among other things, that the CSU Chancellor unlawfully communicated with bargaining unit employees about a negotiable subject during the course of negotiations.

The General Counsel of the Public Employment Relations Board (hereafter Board or PERB) issued a complaint on September 15, 1987. The complaint charged that CSU Chancellor W. Ann Reynolds "promised benefits to unit employees represented by Charging Party by announcing wage adjustments for unit employees in a [written communication] without

conditioning the granting of such benefits on Respondent either reaching agreement through collective bargaining with the Charging Party or exhausting impasse procedures as provided in the Higher Education Employer-Employee Relations Act, Government Code section 3560 et seq. (HEERA or Act)." This conduct, the complaint asserts, interfered with employees' rights to form, join and participate in activities of employee organizations as provided in section 3565 and, therefore, violated section 3571(a). The same conduct, the complaint further alleges, interfered with the charging party's right to function as an employee organization in violation of section 3571(b).[1]

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[1]The HEERA is codified at Government Code section 3560 et seq., and is administered by the Board. Unless otherwise indicated, all statutory references are to the Government Code. Section 3565 states in relevant part that employees shall have the right to

> form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and for the purpose of meeting and conferring.

Section 3571(a) and (b) state that it shall be unlawful for the employer to

> (a) 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.
>
> (b) Deny to employee organizations rights guaranteed to them by this chapter.

Respondent filed an answer to the complaint on September 24, 1987. Respondent denied that it violated the Act. The settlement conference on November 12, 1987 did not resolve the dispute.

A formal hearing was conducted in Los Angeles on February 9, 1988 by the undersigned administrative law judge. The post-hearing briefing schedule was completed on April 20, 1988.

FINDINGS OF FACT

The parties have stipulated to the relevant facts. The following is a summary of that stipulation.

CSEA is the exclusive representative for four bargaining units. These are Health Care (Unit 2), Operations Support (Unit 5), Clerical/Administrative Support (Unit 7), and Technical Support Services (Unit 9). The existing Memorandum of Understanding, covering all units and effective July 1, 1985 to June 30, 1988, provides for the parties to reopen negotiations on economic issues for the 1987/88 fiscal year. On February 24, 1987, CSEA sunshined its initial bargaining proposals. CSU presented its initial proposals to the public on March 10, 1987. On April 27, 1987, the parties began formal negotiations on wages and benefits.

On July 23, 1987 CSEA filed a request for a determination of impasse and appointment of a mediator with the Board's regional office in Los Angeles. Each of the issues at impasse

had a monetary impact on the CSU budget. The salary adjustment was one of the subjects on which the parties had reached impasse.[2]

Meanwhile, on July 7, 1987, the Governor signed a budget appropriating $10,896,000 for nonfaculty compensation. This figure represented a reduction from $17,476,000. The relevant language in the Governor's budget is as follows:

> I am reducing the increase for nonfaculty compensation by $5,448,000. Even with this reduction, the augmentation for nonfaculty compensation increases is sufficient to provide, subject to collective bargaining, up to a four percent general compensation increase package commencing January 1, 1988, plus costs of estimated health and dental benefit rate increases.
>
> Further, I am revising Provision I relating to the percentage and effective date of nonfaculty compensation increases. This language would contravene the Higher Education Employer-Employee Relations Act (HEERA) regarding the rights of the higher education employer and employees to determine wages, hours and other terms and conditions of employment through collective bargaining.
>
> > "I. The funds herein appropriated are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance, in augmentation of Item 6610-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available

[2]The petition states the parties were at impasse on the following issues: salary adjustment, nurse practitioner differential, shift differential, merit salary adjustment, longevity pay, employee assistance program, parking fees, and nonindustrial disability insurance.

> for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided by the Trustees of the California State University. Nonfaculty compensation increase funds shall be for an average 6.0 percent salary increase commencing January 1. 1988. and faculty compensation increase funds shall be for an average 6.9 percent salary increase commencing July 1. 1987."

The underlined portion represents the Governor's deletion.

In addition, the budget provided CSU some flexibility in the area of employee compensation. The Governor's message stated:

> I am requesting the Trustees to disregard the broader authority which the Legislature has provided by excluding CSU from provisions that prohibit a salary setting authority from using, for employee compensation increases, monies other than what is specifically appropriated for compensation increases. I do not believe the action of the Legislature reflects sound fiscal policy. The Legislature did not extend this same authority to the University of California, Hastings College of Law or to Civil Service and Related employees. If CSU Trustees decide to use this broader authority, I am requesting they report back to me and the Legislature for concurrence prior to the expenditure of any funds other than those specifically appropriated for compensation purposes.

On July 15, 1987, prior to the request for impasse, the CSU Chancellor's Office published its newsletter, "Wrap-Up." This document is issued at regular intervals and represents a summary of meetings of the CSU Board of Trustees. Several portions of this newsletter form the heart of this unfair practice charge.

First, the Wrap-Up announced that the 1987-88 budget was "accepted by the Trustees." It also stated:

> An average 6.9 percent salary increase for faculty and an average four percent hike for non-faculty staff are among the budget provisions. Both pay increases will take effect January 1, 1988. "Although the compensation funds for faculty and staff do not take effect until next year," said CSU Chancellor W. Ann Reynolds, "I am pleased with the increases. They bring us closer to attaining adequate and appropriate compensation for our faculty and staff."

Finally, the Wrap-Up stated that "an appropriate 1987-88 salary and benefits increase for non-represented employees based on the 1987-88 budget has been approved by the Board of Trustees." CSEA had initially proposed an increase higher than four percent. The Governor's budget, including the reductions, was widely reported in newspapers throughout California.

The parties eventually reached agreement on a new memorandum of understanding. The new MOU provided for a four percent increase, effective January 1, 1988.[3]

ISSUES

1. Whether respondent interfered with the rights of bargaining unit employees under the Act by its publication of certain portions of the Wrap-Up on July 15, 1987, in violation

[3]The parties stipulated that the wage increase was retroactive to the expiration date of the prior agreement. (TR. P. 6) This stipulation is rejected in view of the written agreement between the parties, effective July 1, 1987 to June 30, 1988, which provides in Article 19 that the increase was to be effective January 1, 1988.

of section 3571(a)?

2. Whether respondent interfered with the rights of the exclusive representative under the Act by its publication of certain portions of the Wrap-Up on July 15, 1987, in violation of section 3571(b)?

DISCUSSION

The Act imposes on the higher education employer an obligation to meet and confer with the exclusive representative. It embodies the principle that the employer is subject to the concomitant obligation to meet and confer with no others, including the employees themselves. Section 3570; see also Medo Photo SUPPLY Corp. v. NLRB (1944) 321 U.S. 678, [14 LRRM 581]. Consequently, actions of a higher education employer which are in derogation of the authority of the exclusive representative are unlawful.

This does not mean that higher education employers, under the Act, are precluded from freely expressing their views. HEERA protects the expression of employer "views, arguments, or opinions", unless such expression contains a "threat of reprisal, force, or promise of benefit." Section 3571.3.[4]

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[4]Section 3571.3 states:

> The expression of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute, or be evidence of, an unfair labor practice under

The decision regarding whether employer statements interfere with employees' rights is made on an objective rather than subjective basis. The charging party must show that the employer's communications would tend to coerce or interfere with a reasonable employee in the exercise of protected rights. Therefore, communications are evaluated "in light of the impact that such communication had or [is] likely to have on the . . . employee who may be more susceptible to intimidation or receptive to the coercive import of the employer's message." Rio Hondo Community College District (1980) PERB Decision No. 128. p. 20. That employees may interpret statements, which are otherwise protected, as coercive does not necessarily render those statements unlawful. Regents of the University of California (1983) PERB Decision No. 366-H, fn. 9, pp. 15-16; BMC Manufacturing Corp. (1955) 113 NLRB 823, [36 LRRM 1397].

Of crucial importance in evaluating employer speech is the context in which the speech occurred. Los Angeles Unified

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> any provisions of this chapter, unless such expression contains a threat of reprisal, force, or promise of benefit; provided, however, that the employer shall not express a preference for one employee organization over another employee organization.

This section is parallel to section 8(c) of the National Labor Relations Act (NLRA). The construction of similar or identical provisions of the NLRA may be used to guide interpretation of the HEERA. See. e.g., San Diego Teachers Assn. v. Superior Court (1979) 12 Cal.3d 1, 12-13; Fire Fighters Union v. City of Vallejo (1974) 12 Cal.3d 608, 616.

School District (1988) PERB Decision No. 659, p. 9, and cases cited therein. In the collective bargaining context, the Board has long viewed as unlawful employer communications with employees which bypass the exclusive representative or undermine that representative's authority to represent unit members in collective bargaining. The "touchstone" for determining the propriety of an employer's direct communication with employees is the effect on the authority of the exclusive representative. Muroc Unified School District (1978) PERB Decision No. 80, pp. 19-20.

In evaluating employer speech to determine whether it is protected under the above principles, the Board has also placed considerable weight on the accuracy of the speech. Alhambra City and High School Districts (1986) PERB Decision No. 560, p. 16; Muroc Unified School District, supra, p. 22. Where employer speech, which accurately describes an event, does not on its face carry the threat of reprisal or force, or promise of benefit, the Board will not label the speech unlawful.

As CSU points out in its post-hearing brief, statements simply describing the contents of the Governor's final budget, standing alone, are not of the type which are likely to coerce employees or otherwise interfere with the exercise of employee rights. Nor are they of the type which are likely to undermine the exclusive representative. They are more akin to the kinds of statements routinely made as part of the budget setting process in the public sector. Therefore, to the extent that

the Wrap-Up simply described the contents of the budget and reported the Trustees' response to the budget, it is not viewed as unlawful. There is no prohibition against an employer communicating in an noncoercive way with bargaining unit employees on negotiable subjects during negotiations. See Muroc Unified School District, supra, p. 21.

However, the bargaining context in which the publication was issued, and the inaccurate message conveyed, compel closer scrutiny. The Wrap-Up definitively stated that the Trustees accepted the four-percent increase and that it "will take effect January 1, 1988". This language, while not assuring a four-percent raise, certainly implies that CSU had unilaterally fixed the salary increase. Equally important, the language unequivocally sets the effective date of any raise. According to the stipulation, CSEA initially proposed an increase higher than four percent. The request for impasse, filed on July 23, 1987, establishes that the parties had not reached agreement and were at impasse regarding salary as of that date. It follows that there was no agreement on salary as of July 15, 1987, the date the Wrap-Up was issued. Yet the Wrap-Up implied that bargaining unit employees would receive a four-percent increase and clearly established that the increase "will take effect on January 1, 1988." There is no language in the Wrap-Up which can be interpreted as qualifying these events on the outcome of the negotiating process. Since the salary adjustment was still on the table as of July 15, 1987, the

message delivered by the Wrap-Up was plainly premature, as well as inaccurate. It suggested that the salary increase, as well as the implementation date, would be determined by CSU, not through the bilateral give and take contemplated by the Act. That the parties eventually agreed to a four-percent increase effective January 1, 1988, standing alone, does not lessen the impact of this suggestion.

Another interpretation, offered by CSU in its brief, is that the Wrap Up delivered no promise and was not inaccurate. In other words, the Wrap Up may be viewed as a mere recognition that the budget included enough money for a four-percent increase, and mere silence about future salary negotiations does not necessarily point to an unwillingness to bargain. This interpretation is not implausible. However, it is not accepted here. The statements in the Wrap Up cannot be read in isolation. The language implying that there would be a four-percent increase and the language clearly setting the effective date, when read together, indicate that CSU had set the salary rate as well as its effective date. In any event, even if the Wrap Up is interpreted as not setting the salary rate it would not change the outcome of this decision, since the language unequivocally setting the effective date, unlike the language covering the four-percent raise, does not lend itself to an alternative interpretation. Indeed, the statement in the Wrap Up attributed to Chancellor Reynolds to the extent that the raises "do not take effect until next year" tends to

support this interpretation.

Even the Governor's budget recognized the negotiations obligation imposed by the Act. In essence, it provided, "subject to collective bargaining," for "up to a four percent general compensation increase package." The budget also revised certain language which, in the Governor's words, would "contravene the . . . [Act]. . . . [r]egarding the rights of [employers and employees] to determine wages, hours and other terms and conditions of employment through collective bargaining."

It is recognized that the statements in the Wrap-Up are not of the most egregious nature. There was only a single statement, there is no evidence that CSU engaged in an ongoing campaign to sway employee opinion, and the parties eventually reached an agreement. And there is admittedly a "fine line" between protected speech and prohibited speech. See e.g., Rio Hondo Community College District, supra, p. 24-25. Nevertheless, statements from the highest level in the CSU hierarchy during the course of negotiations which, viewed objectively, suggest that the employer has the sole authority to impose salary schedules or other negotiable terms and conditions of employment are of the type which tend to interfere with and coerce employees in the exercise of protected rights. Employees who presumably are aware of the negotiating process (and, in particular, the statutory right to negotiate about salaries) are left to question the

effectiveness of their elected representatives at the table. Such statements similarly tend to diminish the authority of the exclusive representative at the table, as well as in the eyes of bargaining unit employees. In this case CSEA was put in the awkward position of reading communications in the Wrap Up about the four-percent increase and its effective date at precisely the time that the salary issue was on the table. Even in the absence of anti-union motive, the statements in the July 15, 1987 Wrap-Up undermined CSEA and undercut the prospects for the type of bargaining relationship contemplated by the Act.

It is also recognized that negotiators in the public sector may confront an uncertain financial picture which can pose a serious impediment to fruitful negotiations and thus present a myriad of issues during negotiations. Awaiting final budget action from the Legislature or the Governor, under the circumstances, cannot be said to breach the obligation to negotiate in good faith, cf. Association of California State Attorneys and Administrative Law Judges v. State of California (Department of Personnel Administrative (1986) PERB Decision No. 569-S. Thus, if CSU had merely announced acceptance of the budget and its terms, while recognizing in some way the negotiating obligation imposed by the Act, the comments about the salary increase and its effective date would have been within the protections afforded by the cases cited above. However, the Wrap-Up did not do so. Saying nothing about the obligation to negotiate, the Wrap Up announced with finality

the terms of a negotiable subject while that particular subject was still on the table.

Negotiations do not necessarily end with the Governor's budget. Acceptance of the budget may not mandate use of the funds in precisely the manner suggested by the language of the budget. Assuming some flexibility in the way the money is spent, funds may be expended in ways which are not precisely in conformity with the budget itself. In this case, for example, the Governor provided "up to a four percent general compensation increase package" and clearly stated his preference that CSU not exercise the "broader authority" to use, for employee compensation increases, monies other than what was specifically appropriated for compensation increases. The Governor noted that "if CSU Trustees decide to use this broader authority, I am requesting they report back to me and the Legislature for concurrence prior to the expenditure of any other funds other than those specifically appropriated for compensation purposes." CSEA may have been unsuccessful in persuading CSU to exercise its "broader authority," or CSEA may have chosen to not pursue the matter. However, it is the essence of collective bargaining that the exclusive representative at least be given the opportunity to decide which course to pursue. The Wrap-Up suggests that the employer alone is entitled to make that choice.

During the negotiations CSEA, as exclusive representative, was obligated to weigh many demands, priorities and interests

of employees in four bargaining units, and subgroups of employees within each unit. By the statements in the Wrap-Up, CSU interfered with this opportunity. As CSEA points out in its brief, "on July 7, 1987, the Trustees had increased authority and independence to meet and confer in good faith on wages and benefits and to attempt to reach agreement. There was no specific mandated wage or benefit increase, only advisory language and an appropriation which was not limiting."

For the reasons noted above, the comments in the Wrap-Up were unlawful.

CONCLUSION

Based on the foregoing, it is concluded that the statements in the Wrap-Up are of the type which tend to undermine the exclusive representative in the eyes of bargaining unit employees. The same statements tend to interfere with the rights of unit employees to be represented by their duly elected employee organization. In the absence of any justification by CSU for the statements, it is concluded that the Wrap-Up issued on July 15, 1987 violated sections 3571(a) and (b). Carlsbad Unified School District (1979) PERB Decision No. 89.

REMEDY

Section 3563.3 sets forth the Board's remedial power, that section states:

> The board shall have the power to issue a decision and order directing an offending party to cease and desist from the unfair

> practice and to take such affirmative action, including, but not limited to, the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

In this case it has been determined that CSU, through public statements in the Wrap-Up published during the course of negotiations, undermined CSEA, the exclusive representative, in violation of section 3571(b). It has also been found that the same conduct interfered with the right of bargaining unit employees to be represented by the employee organization of their choice, in violation of section 3571(a). It is therefore appropriate to order the respondent to cease and desist from such conduct in the future.

It also is appropriate that the District be required to post a notice incorporating the terms of the order. The notice should be subscribed by an authorized agent of the California State University Board of Trustees indicating that it will comply with the terms thereof. The notice shall not be reduced in size. Posting such a notice will provide employees with notice that the CSU has acted in an unlawful manner and is being required to cease and desist from this activity. It effectuates the purposes of the HEERA that employees be informed of the resolution of the controversy and will announce the CSU's's readiness to comply with the ordered remedy. See Placerville Union School District (1978) PERB Decision No. 69; Pandol and Sons v. Agricultural Labor Relations Bd. (1979)

98 Cal.App.3d 580, 587; NLRB v. Express Publishing Co. (1941) 312 U.S. 426 [8 LRRM 415].

PROPOSED ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in the case, and pursuant to section 3563.3, it is hereby ordered that the California State University Board of Trustees and its representatives shall:

1. CEASE AND DESIST FROM:

(a) Issuing statements in the "Wrap-Up" or other publications during the course of negotiations which tend to interfere with the right of bargaining unit employees to be represented by the exclusive representative California State Employees Association, SEIU Local 1000.

(b) Issuing statements in the "Wrap-Up" or other publications during the course of negotiations which tend to interfere with the right of the California State Employees Association, SEIU Local 1000 to represent bargaining unit employees.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

(1) Within ten (10) workdays of service of a final decision in this matter, post at all sites and all other work locations where notices to employees are customarily placed, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the California State University Board of Trustees indicating that the CSU will

comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to insure that the Notice is not reduced in size, altered, defaced or covered by any other material.

(2) Upon issuance of a final decision, make written notification of the actions taken to comply with the Order to the Los Angeles Regional Director of the Public Employment Relations Board in accordance with his instructions.

Pursuant to California Administrative Code, title 8, part III, section 32305, this Proposed Decision and Order shall become final unless a party files a timely statement of exceptions with the Board itself at the headquarters office in Sacramento within 20 days of service of this Decision. In accordance with PERB Regulations, the statement of exceptions should identify by page citation or exhibit number the portions of the record, if any, relied upon for such exceptions. See California Administrative Code title 8, part III, section 32300. A document is considered "filed" when actually received before the close of business (5:00 p.m.) on the last day set for filing, ". . .or when sent by telegraph or certified or Express United States mail, postmarked not later than the last day set for filing . . ." See California Administrative Code, title 8, part III, section 32135. Code of Civil Procedure section 1013 shall apply. Any statement of

exceptions and supporting brief must be served concurrently with its filing upon each party to this proceeding. Proof of service shall accompany each copy served on a party or filed with the Board itself. See California Administrative Code, title 8, part III, sections 32300, 32305, and 32140.

Dated: April 25, 1988

Fred D'Orazio
Administrative Law Judge