STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

HOWARD O. WATTS, Complainant, v. LOS ANGELES COMMUNITY COLLEGE DISTRICT, Respondent.	)	Case No. LA-PN-116 PERB Decision No. 908 October 24, 1991

Appearances: Howard 0. Watts, on his own behalf; James R. Lynch, Assistant General Counsel, for Los Angeles Community College District.

Before Hesse, Chairperson; Shank and Camilli, Members.

DECISION

HESSE, Chairperson: This case is before the Public Employment Relations Board (Board or PERB) on an appeal filed by Howard O. Watts (Watts) to an administrative determination (attached) by a PERB Regional Director.[1] The Regional Director dismissed the complaint filed by Watts against the Los Angeles Community College District (District) which alleged that the

[1]This appeal is brought pursuant to PERB Regulation 32925 which states, in pertinent part:

> Within 20 days of the date of service of a dismissal made pursuant to section 32920(b)(8) or a determination made pursuant to section 32920(b)(10), any party adversely affected by the ruling may appeal to the Board itself.

PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

District violated the Educational Employment Relations Act (EERA) section 3547(a) and (b).[2]

Specifically, Watts alleges the District violated section 3547 when it amended its initial proposal and failed to indicate on the agenda that the initial proposal had been amended. The Board has reviewed the dismissal and, finding it free of prejudicial error, adopts it as the decision of the Board itself consistent with the discussion below.

In addition to Watts' appeal of the dismissal of the public notice complaint, the District has filed an appeal of the appeals assistant's rejection of its opposition to Watts' appeal. On July 16, 1991, the appeals assistant sent a letter to the District which rejected its opposition as untimely filed. For

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[2]EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. EERA section 3547 states, in pertinent part:

> (a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.
>
> (b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

the reasons stated below, the Board denies the District's appeal of its untimely filed opposition.

I. TIMELINESS ISSUE

FACTUAL SUMMARY

On July 12, 1991, the Board received by regular U.S. mail a letter dated June 27, 1991, written by the District's Assistant General Counsel in opposition to the appeal filed by Watts in Case No. LA-PN-116. The response to the appeal in Case No. LA-PN-116 was due to be filed with PERB no later than Friday, June 28, 1991. On July 16, 1991, the appeals assistant wrote a letter to the District's Assistant General Counsel stating that the District's filing must be rejected as untimely filed. Pursuant to PERB Regulation section 32360, the District filed an appeal of its untimely filing to the Board itself.

DISTRICT'S APPEAL

The District states that its letter of opposition, dated June 27, 1991, was inadvertently mailed to the wrong address due to a typographical error. The envelope was addressed to "1031 8th St." As the District's opposition was properly and timely mailed to Watts, the District argues there will be no prejudice to Watts if the Board accepts the District's opposition. The District concludes its appeal by stating that it did timely mail its opposition to the Board and that Watts would not be prejudiced should the Board accept the District's opposition.

WATTS' RESPONSE TO APPEAL

Watts first argues that the District's opposition letter was **filed** on July 12, 1991, which is "way past the deadline for **filing** their position." Watts argues there is no good cause for **PERB** to accept the District's opposition letter since it was **supposed to** be sent by certified mail by that late date for PERB **to** excuse the misdirected letter. Watts also states that the **fact** he received the opposition letter does not mean that he **would** not be prejudiced by the Board's decision to excuse the **late** filing.

DISCUSSION

There are two problems with the District's opposition to Watts' appeal. First, the address on the envelope was incorrectly typed as "1031 8th St." Second, the opposition was **sent** by regular U.S. mail on June 27, 1991. The last day for the District's opposition to be timely filed was June 28, 1991. **Therefore,** the opposition should have been mailed by certified **mail** or express United States mail to assure that the opposition **would** be timely filed by the final filing date of June 28, 1991. PERB Regulation 32135 provides:

> All documents shall be considered "filed" when actually received by the appropriate PERB office before the close of business on the last date 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 and addressed to the proper PERB office.

In this case, PERB did not actually receive the District's opposition until July 12, 1991, by regular mail. Additionally, the original envelope was incorrectly addressed.

Pursuant to PERB Regulation 32136,[3] the Board may excuse a late filing for good cause only. In previous decisions, the Board has excused certain clerical errors where there was no prejudice to the opposing party. In Trustees of the California State University (1989) PERB Order No. Ad-192-H, the Board found that the secretary's declaration that she had followed the normal procedure in mailing the exceptions, but had failed to notice the mailroom employee's error of incorrectly setting the postage meter constituted good cause for excusing the late filing. In The Regents of the University of California (Davis, Los Angeles, Santa Barbara and San Diego) (1989) PERB Order No. Ad-202-H, the Board found good cause to excuse the late filing based on the fact that had the document been mailed by certified or express mail on the same day it was mailed by regular first class mail, it would have been accepted as timely. In an unrefuted declaration, the attorney stated that the document was completed and that he had instructed his secretary to mail the brief on the following day. Since it was a policy of his office to file documents with PERB by certified mail and his secretary had filed

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[3]PERB Regulation 32136 provides:

> A late filing may be excused in the discretion of the Board for good cause only. A late filing which has been excused becomes a timely filing under these regulations.

many documents at PERB by certified mail, he believed that the mailing would be accomplished by certified mail. Since this explanation for the error was not implausible, and there was no prejudice resulting from the deficiency in the filing, the Board concluded that good cause existed for excusing the late filing. In North Orange County Regional Occupational Program (1990) PERB Decision No. 807, the Board found that good cause was shown because a timely filing was attempted, but went awry due to an inadvertent error, and there was no prejudice to the opposing party. In this case, the exceptions were mistakenly filed well before the deadline but in the Los Angeles Regional Office rather than the Headquarters Office as required by PERB Regulation 32300(a). Finally, in Los Angeles Unified School District (1991) PERB Decision No. 874, the Board excused a statement of exceptions filed one day late for good cause. However, there is no further explanation in the decision. The Board simply states that it had the opportunity to consider both parties' arguments.

Despite these cases excusing clerical errors, the Board has also determined that mail delays generally do not constitute extraordinary circumstances to excuse a late filing. (See Fontana Unified School District (1986) PERB Order No. Ad-157.)[4]

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[4]This decision was decided under former PERB Regulation 32136 which provided that:

> A late filing may be excused in the discretion of the Board only under extraordinary circumstances. A late filing which has been excused becomes a timely filing under these regulations.

In Ventura Unified School District (1989) PERB Decision No. 757, the Board did not consider a response to an appeal which was sent by regular mail on the last day of the filing period. Since no reason for the late filing was provided, the Board did not consider the response in rendering its decision.

In this case, even if the correct address was used, the District sent its opposition by regular mail one day before the opposition was due at PERB. In its appeal, the District asserts that its opposition was timely mailed to PERB. Since the opposition was sent from Los Angeles to Sacramento by regular mail, it is extremely doubtful that the opposition would have arrived the next day at PERB. Therefore, this case is similar to PERB Decision No. 757, wherein the Board did not consider an opposition sent by regular mail which failed to arrive at PERB on the last day set for filing. As in PERB Decision No. 757, the District did not submit an explanation for its mailing of its opposition by regular mail. Instead, the District focused on its typographical error on the envelope's address. Therefore, the Board concludes that good cause does not exist to excuse the District's late filing.[5]

[5]The fact that the Board does not excuse the District's late filing of its opposition does not prejudice the District in light of the Board's affirmance of the Regional Director's dismissal of the public notice complaint.

II. WATTS' APPEAL OF PUBLIC NOTICE COMPLAINT

FACTUAL SUMMARY

The facts are accurately stated in the Regional Director's administrative determination. However, we briefly summarize the relevant facts here.

On October 24, 1990, at a Board of Trustees' public meeting, the District presented its response to the exclusive representative's reopener proposal for the maintenance/operations unit. The District proposal included a provision regarding the contracting out of window washing and cafeteria work. On November 7, 1990, the District again presented its initial reopener proposals at a public meeting. At this meeting, public comment was received. Watts spoke in opposition to the proposals. At this Board meeting, one of the trustees raised the question of the legality of contracting out. This same trustee proposed that the contracting out proposal be tabled in order to allow the Assistant General Counsel to determine the legality of contracting out for services. On November 20, 1990, the Chancellor's Office issued a "Response to Trustee Inquiry" which discussed the problems of contracting out the window washing and cafeteria services.

At the December 12, 1990 public meeting, the District amended its initial proposal and presented it on the agenda as an action item. The proposal was listed as "District's initial reopener proposal for the Maintenance/Operations Unit." Watts spoke in opposition to this proposal under multiple agenda

matters. The minutes reflect that the District's initial reopener proposal for the maintenance/operations unit, which was initially presented for action, was withdrawn.

On January 9, 1991, the amended initial proposal was placed on the agenda as "District's initial reopener proposal for the Maintenance/Operations Unit." The agenda also provided a public response to the District's initial reopener proposal for the maintenance/operations unit. The public was afforded a full opportunity to speak to this item. Watts spoke in opposition to the amended initial proposal. After public comment, the District adopted its amended initial proposal.

WATTS' APPEAL

In his 19-page, single-spaced, handwritten appeal, Watts discusses his disagreement with both the District's arguments and Regional Director's administrative determination. The following is a summary of his substantive exceptions:

1. Watts disagrees with the Regional Director's discussion of Government Code section 54954.2(a) regarding the 72-hour posting period. Watts argues this discussion is irrelevant and ridiculous as this Government Code section is not within PERB's jurisdiction.

2. When the Regional Director sent a letter to Watts stating that his public notice complaint stated a prima facie violation, Watts expected an opportunity to discuss the case with her before the case was dismissed. Watts also objects to the

Regional Director's failure to review the tapes of the meetings and reliance upon the misleading minutes.

3. With regard to the "Response to Trustee Inquiry," Watts states he had no knowledge of this letter before reading about said letter in the administrative determination. Watts asserts the document needed to be circulated to the parties in the case before the answer to the public notice complaint.

4. In the collective bargaining agreement, there is a provision for the public to respond to specific amendments for a period of up to five minutes. However, Watts claims this limit does not mention multiple agenda matters. Watts notes that at the December 12, 1990 public meeting, he had to speak under the multiple agenda matters. As Watts had to leave the December 12, 1990 meeting before it was adjourned, he was not able to speak under the public comment section at the end of the meeting.

5. Watts argues that the initial reopener proposal was changed to an amendment and should have been placed on the January 9, 1991 agenda as an amended proposal.

6. Watts disagrees with the District's statement that oral notice is sufficient notice of future action, based on PERB precedent.

7. Watts asserts that the Regional Director has not understood the issue, and followed the District's point of view. In particular, Watts argues that the District cannot amend an initial proposal without first allowing for the amendment to go through the proper process of sunshining the amendment. This

process includes three steps: (1) an informative; (2) public comment; and (3) adoption of amendment. At the December 12, 1990 public meeting, Watts complains the amendment was withdrawn and reappeared on the January 9, 1991 agenda without public noticing of the amendment.

8. Watts argues that the District violated the public notice statute by (1) failing to sunshine the amendment before the District was to take action on the amendment; and (2) failing to give proper notice for the amendment. Watts asserts there was no noticing of the amendment on the December 12, 1990 agenda. Watts asserts that the District should have indicated on the December 12, 1990 agenda that the proposal had been amended. At the following public meeting on January 9, 1991, the District should have scheduled public response and voted on the amended proposal. In essence, Watts argues there was no attempt by the District to sunshine the amended proposal.

DISCUSSION

The facts in the public notice complaint and District's response indicate that Watts believes the District violated section 3547 when it amended its initial proposal and failed to indicate on the agenda that the initial proposal had been amended. Watts argues that the District failed to properly notice the amended proposal. Specifically, Watts believes that the proper public noticing process involves three steps: (1) placing the item on the agenda as an informative; (2) receiving public comment on the item; and (3) adopting the item.

While the agendas for the October 24, 1990, November 7, 1990, December 12, 1990, and January 9, 1991 public meetings list the District's proposal as "District's Initial Reopener Proposal for the Maintenance/Operations Unit," the public was put on notice that the proposal had been amended by the attachments to the December and January public meeting agendas. The attachments designated the changes in the proposal by underlining any new language. Further, there was public comment by Watts on the initial and amended proposals before the District adopted the amended proposal at the January public meeting.

PERB precedent establishes that section 3547 does not prescribe an exact order for the presentation and adoption of proposals. In Los Angeles Community College District (1984) PERB Decision No. 455, the Board found that the public notice statutes do not specify five separate and distinct steps in order to comply with the public notice provisions. The Board's decision in Los Angeles Community College District (1984) PERB Decision No. 385 provides that the section 3547 mandate is amply satisfied if a time for comment is provided prior to the commencement of negotiations. Finally, in Los Angeles Unified School District (1990) PERB Decision No. 832, the Board found that the form in which an initial proposal is brought to public attention is relevant only insofar as it must allow time for adequate public comment. (See Los Angeles Unified School District (1983) PERB Decision No. 335.)

Here, the amended initial proposal was listed as an initial proposal at the December 12, 1990 public meeting, but was withdrawn. This amended proposal reappeared on the January 9, 1991 agenda as an initial proposal. Even though the agenda did not indicate that the initial proposal had been amended, the public had notice of the changes in the attachments. Therefore, the public had an opportunity to comment on the amended proposal.

With regard to Watts' substantive exceptions, only one has merit. Watts' exception to the Regional Director's reference to the 72-hour posting period in Government Code section 54954.2(a) has merit. In determining what constitutes "reasonable time," the Board does not have a specific formula or time period. Rather, the Board examines each case based on the facts. (See San Francisco Community College District (1979) PERB Decision No. 105.) In Los Angeles Unified School District (1990) PERB Decision No. 852, the Board found there was reasonable time for public comment where two weeks were allowed for public comment. In Los Angeles Community College District, supra, PERB Decision No. 455, the Board found that one month was a reasonable time for public comment. However, the Board also stated that an employer is not precluded from adopting a proposal at the same meeting as long as there is public comment.

In the present case, the amended initial proposal was included with the attachments to the December 12, 1990 meeting. The same amended proposal and its attachments were again on the agenda for the January 9, 1991 public meeting. Therefore, there

appears to have been approximately one month allowed for public comment on the amended initial proposal. Based on PERB precedent, the Board finds that a reasonable time elapsed after the notice of the amended initial proposal and public comment.

With regard to Watts' exceptions regarding the District's five minute rule, the Board has held that both a five minute rule and three minute rule provided adequate time for public comment. (See Los Angeles Unified School District (1981) PERB Decision No. **181;** Los Angeles Community College District (1980) PERB Order No. **Ad-91.)** Accordingly, this exception has no merit.

Watts also complains that after sending a letter stating the public notice complaint stated a prima facie violation and requesting the District's response, the Regional Director dismissed the case without first discussing the case with Watts or scheduling an informal conference. However, the Board has held that the dismissal of a public notice complaint after an answer is filed or informal conference is held does not constitute reversible error in the absence of a showing that the complaint alleged a prima facie violation. (See Los Angeles Community College District (1980) PERB Decision No. 153; Los Angeles Community College District (1983) PERB Decision No. 331.) Therefore, the fact that the Regional Director dismissed the public notice complaint after initially finding a prima facie violation does not constitute grounds for granting Watts' appeal. Watts must also demonstrate that the public notice complaint alleged a prima facie violation. As the Board agrees with the

Regional Director's administrative determination dismissing the public notice complaint, this exception has no merit.

Watts also disagrees with the District's statement that oral notice of further action is sufficient. However, in Los Angeles City and County School Employees Union, Local 99, Service Employees International Union, AFL-CIO (1985) PERB Decision No. 490, the Board found that section 3547 does not require all initial proposals to be in written form. The Board held that an oral presentation satisfied the public notice requirements. In particular, the Board found that the District's oral clarification of an initial proposal satisfied the public notice requirements. Therefore, even if the District orally noticed the amended initial proposal, the requirements of section 3547 are still satisfied.

Finally, Watts' exception regarding the "Response to Trustee Inquiry" has no merit. Watts states he had no knowledge of this letter before reading about said letter in the administrative determination. Watts argues that the document must be circulated to the parties before the answer to the public notice complaint. As this document was available, upon request, for review by the public, Watts could have obtained a copy of this document. Accordingly, this exception has no merit.

With the exception of the Regional Director's reference to the 72-hour posting period in Government Code section 54954.2(a), the Board affirms the administrative determination. The

remaining exceptions are rejected as either nonprejudicial or without merit.

ORDER

The District's appeal of the Board's rejection of its untimely filed opposition is hereby DENIED. Further, the complaint in Case No. LA-PN-116 is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Members Shank and Camilli joined in this Decision.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

HOWARD WATTS, Complainant, v. LOS ANGELES COMMUNITY COLLEGE DISTRICT, Respondent.	)	Case No. LA-PN-116 (LA-R-1C) ADMINISTRATIVE DETERMINATION (April 24, 1991)

This administrative determination dismisses a public notice complaint filed by Mr. Howard Watts (hereinafter Complainant) against the Los Angeles Community College District (District) alleging a violation of section 3547(a) and (b)[1] of the Educational Employment Relations Act (EERA).[2]

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[1] Government Code Section 3547 provides in pertinent part:

> (a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.
>
> (b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.
>
> (c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

[2] The EERA is codified at Government Code section 3540 et seq. All statutory references are to the Government Code unless otherwise noted.

BACKGROUND

On January 4, 1991, Howard Watts filed a public notice complaint pursuant to the Public Employment Relations Board (PERB) regulation 32910[3] in the Los Angeles Region of PERB. The complaint alleges the District violated section 3547(a) and (b) of the EERA by "not presenting an amendment [to an initial proposal] to the public before they adopted their initial reopener proposal." The essence of the complaint is that the District amended its initial proposals, and then adopted the amendment without allowing public comment on the amendment.

On February 25, 1991, the District was requested to file with PERB a written answer to the complaint. The District responded on March 22, 1991.

The factual assertions of the complaint and the District's response are as follows. On October 24, 1990, at a Board of

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[3] PERB regulations are codified at California Code of Regulations Title 8, section 31001, et.seq. PERB regulation 32910 states in part:

> 2910. Filing of EERA . . . . . Complaint. A complaint alleging that an employer or an exclusive representative has failed to comply with Government Code sections 3547 . . . may be filed in the regional office. An EERA complaint may be filed by an individual who is a resident of the school district involved in the complaint or who is the parent or guardian of a student in the school district or is an adult student in the district. The 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. . . .

Trustee's public meeting, the District presented its response to **Local** 99-SEIU's reopener proposal for the Operations/Support unit. The District's proposal included the following language:

> Article 4 Management Rights
>
> 4.3 The District shall not contract out work which is exclusively performed by classifications which are part of the Maintenance and Operations Unit as of the execution of this Agreement, pood services (employee and student cafeterias) shall be excluded from this prohibition.
>
> . . . . . .
>
> 18.5.3 Notwithstanding the provisions of Article 4. Management Rights. Section-4.3. if a sufficient number of custodial employees have not been trained in window washing, or * when there is not a sufficient number of 'Custodial employees to accomplish both routine daily operations and to wash windows. the District shall be authorized to **contract** out for window washing services.

On November 7, 1990, the District again presented its initial proposals. Public comment was taken. Complainant spoke in opposition to the proposals. At that Board meeting, one of the Trustees raised the question of the legality of contracting out. The initial proposals were tabled pending legal counsel review. That review was issued on November 20, 1990, in a Chancellor Communication entitled "Response to Trustee Inquiry".[4]

[4] Exhibit 4 of the District's response was a copy of the District's Chancellor Communication prepared by James R. Lynch, Assistant General Counsel, entitled Response to Trustee Inquiry, and dated November 20, 1990. Further, according to Mr. Lynch, non-confidential Chancellor Communications are, upon request,

a result of this legal opinion from the District's General Counsel, the District amended its initial proposal and presented it as an action item on the December 12, 1990, Board agenda.

The District's proposal now read:

> 18.5.3 The District and the Onion shall negotiate solutions to the problems of window washing and cafeteria services.

Public comment was scheduled[5] and held. The Complainant and others spoke to the amendment. The Action item on the initial proposal was withdrawn[6] and the item was placed on the agenda for the next Board meeting.

On January 9, 1991, the entire amended initial proposal was on the agenda.[7] The public was afforded full opportunity to speak to the item.* Mr. Watts spoke in opposition to the proposed amendment. After public comment, the District adopted their amended initial proposal.[9]

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available for review by the public.

[5] Exhibit 5 of the District's response was Agenda, Order of Business, Regular Meeting, December 12, 1990. See item number 12 of that agenda.

[6] See pg.12 of the December 12, 1990, minutes of the Board Meeting submitted as Exhibit 6 in the District's response.

[7] See Exhibit 7, pg. 2 of the District's response.

[8] The minutes of all these board meetings, as provided by the District in their response, indicate that Mr. Watts spoke in opposition to both the initial proposal and to the amended initial proposal. Both Mr. Watts and Jules Kimmett spoke to the amended initial proposal on January 9, prior to action taken by the Board to adopt the amended initial proposal.

[9] See pg.8 of the minutes of January 9, 1991, Board Meeting submitted as Exhibit 8 in the District's response.

DISCUSSION

Complainant did not allege any facts to indicate that meeting and negotiating occurred with the exclusive representative prior to the District's adoption of the amended initial proposal, or prior to the two meetings at which public comment was heard. The Complainant also did not allege any other facts which would support a finding of a violation of section 3547(b). Palo Alto Unified School District (Fein). (1981) PERB Decision No. 184.

In Los Angeles Unified School District (Kimmett) (1979) PERB Order No. Ad-53, PERB noted that the intent of section 3547 as stated by the Legislature in section 3547 is that:

> . . . the public be informed of the issues that are being negotiated upon and have full opportunity to express their view on the issues to the public school employer, and to know of the positions of their elected representatives.

The Complainant argues that the District ". . . failed to provide a reasonable time thereafter [presenting their initial proposals] to enable the public to become informed and have an opportunity to express itself regarding such [initial] proposals at a meeting of the District." He cites Los Angeles Community College District (Kimmett) (1981) PERB Decision No. 158[10] as his

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[10] In Los Angeles Community College District (Kimmett.) (1981) PERB Decision No. 158, the District was ordered by the Board to Cease and Desist from:

> Failing to present at a public meeting any initial proposal or any amendment to an existing agreement constituting an initial proposal and from failing to provide a reasonable time thereafter to enable the

authority, and requests PERB to issue a cease and desist order against the District.

Based on the facts alleged in the complaint, and in the District's response, the District presented the initial proposals at a public meeting in October 1990, took comments at both that meeting and at the following public meeting. No action was taken to adopt the initial proposal. The District then determined that their initial proposal needed to be amended, and presented the amended initial proposal at the December 12, 1990, Board meeting.

The Complainant has argued that the Board of Trustees took action on the amended initial proposal at the December 12, 1990, meeting. The exhibits in the District's response, however, indicate that the action item was withdrawn at the December meeting (see Exhibit 6, pg. 12). Even if the District's original intent had been to take action on the amended initial proposal at the December meeting, it did not. Instead the District placed the amended initial proposal on the agenda for the January 9, 1991, Board meeting as an action item. Public comment was held at both meetings prior to adopting the action item at the January meeting. The minutes of these meetings reflect that the Complainant spoke in opposition to the proposal at both meetings.

The Legislature has determined that 72 hours is a sufficient notice period for the public to read and respond to the agenda of a regular Board of Trustees meeting.

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public to become informed and have an opportunity to express itself regarding such a proposal at a meeting of the District.

(Government Code section 54954.2(a).)[11] Further, the District argued that "regular District board meeting agendas routinely have complex action items unrelated to collective bargaining issues. No reasonable argument has been presented by Mr. Watts as to why a reasonable notice period for reopener proposals must exceed the 72 hours required for other complex issues." PERB has stated:

> . . . [T]he statute provides an elastic time frame precisely because what is "reasonable time" varies according to the circumstances surrounding negotiations. . . .
>
> San Francisco Community College District (1979) PERB Decision Mo. 105.

The District met the intent of section 3547 by sunshining their amended initial proposal at two public meetings and allowing public comment. Therefore, we can find no violation of section 3547(a) and (b) of EERA. (Los Angeles Community College District (1984) PERB Decision No. 411; Los Angeles Community College District (1980) PERB Order No. Ad-91). Hence, no violation of section 3547 occurred.

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[11] Government Code section 54954.2 states in part:

> (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. No action shall be taken on any item not appearing on the posted agenda.

CONCLUSION

For the reasons discussed above, this complaint is DISMISSED for failure to state a violation of section 3547.[12]

Right to Appeal

Pursuant to Public Employment Relations Board regulations, any party adversely affected by this ruling may appeal to the Board itself by filing a written appeal within twenty (20) calendar days after service of this ruling (Cal. Admin. Code, tit. 8, sec. 32925). To be timely filed, the original and five copies of such appeal must be actually received by the Board itself before the close of business (5:00 p.m.) or sent by telegraph, certified or Express United States mail postmarked no later than the last date set for filing (Cal. Admin. Code, tit. 8, sec. 32135). Code of Civil Procedure section 1013 shall apply. The Board's address is:

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

The appeal must state the specific issues of procedure, fact, law or rationale that are appealed, must clearly and concisely state

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[12] PERB Regulation 32920(b)(8) states:

> The Board Agent shall [d]ismiss any complaint which, after investigation, is determined to fail to state a prima facie allegation or which is not supported by sufficient facts to comprise a violation of Government Code sections 3547 or 3595. Any such dismissal is appealable to the Board itself pursuant to section 32925 of these regulations; . . .

the grounds for each issue stated, and must be signed by the appealing party or its agent.

If a timely appeal of this ruling is filed, any other party may file with the Board itself an original and five copies of a statement in opposition within twenty calendar days following the date of service of the appeal (Cal. Admin. Code, tit. 8, sec. 32625). If no timely appeal is filed, the aforementioned ruling shall become final upon the expiration of the specified time limits.

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding and the Los Angeles Regional Office. A "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Cal. Admin. Code, tit. 8, sec. 32140 for the required contents and a sample form.) The appeal and any opposition to an appeal 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 an appeal or opposition to an appeal 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 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 (California Administrative Code, title 8, section 32132).

Carol L. KARJALA Date
Regional Director