

**STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD**



COAST COMMUNITY COLLEGE  
ASSOCIATION,

Charging Party,

v.

COAST COMMUNITY COLLEGE DISTRICT,

Respondent.

Case No. LA-CE-5436-E

PERB Decision No. 2330

October 9, 2013

Appearances: California Teachers Association – Legal Services Department by Michael D. Hersh, Staff Counsel, for Coast Community College Association; Lynberg & Watkins by Courtney L. Hylton, Attorney, for Coast Community College District.

Before Martinez, Chair; Huguenin and Banks, Members.

**DECISION**

MARTINEZ, Chair: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Coast Community College District (District) to the proposed decision of a PERB administrative law judge (ALJ). The complaint, and underlying charge, alleged that the District violated section 3543.5, subdivisions (a) and (b) of the Educational Employment Relations Act (EERA)<sup>1</sup> when it retaliated against an employee, Kimberly Eaton, for engaging in protected activities. The two retaliatory acts alleged to have occurred were the District's issuance of a negative performance evaluation and refusal to remove it from the employee's personnel file; and the District's denial of a class assignment for the spring 2010 semester.

PERB held a formal hearing on September 27, 2012. With the receipt of the parties' post-hearing briefs on December 14, 2012, the case was submitted for decision. The ALJ

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<sup>1</sup> EERA is codified at Government Code section 3540 et seq.

issued her proposed decision on January 31, 2013, finding against the District on both counts of retaliatory conduct. On February 25, 2013, the District timely filed limited exceptions to the proposed decision. The District excepted only to the factual and legal determinations concerning the District's denial of a class assignment for the spring 2010 semester. On March 18, 2013, the Coast Community College Association (Association) timely filed an opposition.

On October 3, 2013, counsel for the District filed a letter and a copy of a global settlement agreement on behalf of both the District and the Association, jointly requesting that the exceptions filed by the District be withdrawn and that the underlying unfair practice charge be dismissed with prejudice. The letter was served on counsel for the Association.

The Board has the discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (PERB Reg. 32320, subd. (a)(2) ["The Board itself may . . . take such other action as it considers proper."];<sup>2</sup> *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S; *Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380; *Oakland Unified School District* (1988) PERB Order No. Ad-171a; *ABC Unified School District* (1991) PERB Decision No. 831b.)

Based on the Board's review of the parties' request and the entire record in this matter, the Board finds withdrawal of the exceptions and the unfair practice charge to be in the best interest of the parties and consistent with the purposes of EERA to promote harmonious labor relations. The Board has a longstanding policy of favoring voluntary settlement of disputes. (*Dry Creek Joint Elementary School District* (1980) PERB Order No. Ad-81.) Accordingly,

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<sup>2</sup> PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

the Board grants the parties' request to withdraw the exceptions and the unfair practice charge with prejudice.

ORDER

The joint request by the Coast Community College Association and the Coast Community College District in Case No. LA-CE-5436-E is hereby GRANTED. All exceptions to the proposed decision are hereby deemed withdrawn and the proposed decision is hereby vacated. The unfair practice charge is DISMISSED WITH PREJUDICE.

Members Huguenin and Banks joined in this Decision.