

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JULES KIMMETT,)	
)	
Charging Party, <u>APPELLANT</u> ,)	
	)	Case No. LA-PN-2
v.)	
)	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	)	PERB Order No. Ad-53
	)	Administrative Appeal
Respondent.)	
<hr/>		January 8, 1979

Appearances: Jules Kimmett, representing himself;
Steven C. Babb, Attorney (O'Melveny & Myers) for Los Angeles
Unified School District.

Before Gluck, Chairperson; Gonzales and Cossack Twohey, Members.

DECISION

This case comes before the Public Employment Relations Board (hereafter PERB or Board) on appeal from the Los Angeles regional director's dismissal of a public notice complaint filed by the appellant against the Los Angeles Unified School District (hereafter District). The appellant alleged that the District violated section 3547 of the Educational Employment Relations Act (hereafter EERA)¹ in several respects. The

¹The EERA is codified at Government Code section 3540 et seq. All statutory references are to the Government Code unless otherwise noted.

Section 3547 provides:

- (a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be

procedural history of this case including the appellant's allegations is set forth in the attached decision by the regional director and is adopted by the Board.

The original complaint, filed by the appellant and three other persons,² was dismissed with leave to amend. Only the appellant signed the amended complaint, and on July 21, 1978,

(fn. 1 con't)

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.

(d) New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.

²The original complaint was signed by Jules Kimmett, Howard Watts, and Ben Gomez. Hy Getoff was listed with the other three, but did not sign the complaint.

the three other "complainants" were dismissed as parties.³ This decision was not appealed. Therefore, the complaint at issue in this case was filed by only one person, the appellant.

PERB rule 37010 provides in pertinent part:

A complaint alleging that an employer or an exclusive representative has failed to comply with Government Code section 3547 may be filed in the appropriate regional office by any 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.... (Emphasis added.)

The appellant is a resident of Burbank, which is not part of the Los Angeles Unified School District. He has not alleged that he is either an adult student or the parent or guardian of a student in the District. Therefore, under PERB rule 37010 governing the filing of public notice complaints, the appellant is not a proper complainant.

The intent of section 3547, as stated by the Legislature, is that:

[T]he public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the

³PERB rule 37020 provides that allegations made in public notice complaints:

...shall be contained in an affidavit or in a statement that it is made under penalty of perjury and that the allegations are true and correct to the best of the complaining party's knowledge and belief

Thus, complaining parties must sign public notice complaints.

PERB rules are codified at California Administrative Code, title 8, section 31100 et seq.

issues to the public school employer, and to know of the positions of their elected representatives.

The statute gives persons who are affected by the negotiations of a particular school district the right to be informed of and respond to major negotiating decisions; it does not insure the ability of all Californians to become involved in the decisions of every school district. PERB rule 37101 protects the involvement rights of district constituents while protecting the district from complaints filed by persons with no legitimate interest in its activities.

The appellant is not affected by District negotiating decisions. The fact that he has attended and addressed at least 264 District Board of Education meetings may indicate the intensity of his self-appointed interest in the District, but does not give him any legal interest in its negotiating activities. In short, the appellant is not entitled to protection under section 3547.

The Board therefore dismisses the amended complaint without leave to amend because the appellant is not a proper complainant under rule 37010. Furthermore, the Board notes that the District has amended its public notice administrative regulations to increase the public's opportunity to become involved in Board negotiating decisions. The changes also appear to meet the appellant's concerns. Thus, even if the Board reached the merits in this case, the District's voluntary

⁴Section 3547(e), ante, fn. 1.

compliance would resolve the issues, enabling the case to be dismissed under PERB rule 37060.⁵

ORDER

Based on the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that the amended public notice complaint filed by Jules Kimmett against the Los Angeles Unified School District be dismissed.

By: ~~Raymond J. Gonzales~~, Member

~~Harry Gluck~~, Chairperson

~~Jerilou Cossack Twohey~~, Member

⁵PERB rule 37060 provides in pertinent part:

Prior to the date set for hearing, the regional office shall contact the respondent or respondents and attempt to obtain voluntary compliance. If the respondent agrees to comply voluntarily, the date of hearing may be placed in abeyance by the regional director. Upon proof to the satisfaction of the regional director that the respondent has complied, the regional director may either approve the complaining party's withdrawal of the complaint or dismiss the complaint.

PUBLIC EMPLOYMENT RELATIONS BOARD
OF THE STATE OF CALIFORNIA

JULES KIMMETT,)	
	)	Case No. LA-PN-2
Charging Party,)	
	)	<u>NOTICE OF CANCELLATION</u>
v.	)	<u>OF HEARING</u>
	)	<u>NOTICE OF DISMISSAL</u>
LOS ANGELES UNIFIED SCHOOL	)	<u>OF PUBLIC NOTICE</u>
DISTRICT,	)	COMPLAINT BASED UPON
	)	VOLUNTARY COMPLIANCE
Respondent.	)	<u>NOTICE OF RIGHT TO</u>
	)	<u>APPEAL</u>

On September 22, 1978 William J. Sharp, Assistant Superintendent, Office of Staff Relations of the respondent, Los Angeles Unified School District (hereafter LAUSD or respondent), filed a declaration with this office which shows that the respondent has taken immediate action to amend its public notice regulations in order to achieve voluntary compliance with the requirements of Article 8, section 3547 of the California Government Code.¹ Based upon a careful review of the complaint and the voluntary action of the respondent, the LAUSD amended public notice regulations, on their face, constitute voluntary compliance with the requirements of EERA section 3547. For the reasons set forth below, the complaint

¹Hereafter all references to the California Government Code are referred to as "EERA section ____."

in this matter is dismissed pursuant to California Administrative Code, title 8, section 37060² and the formal hearing scheduled for September 28, 1978 is cancelled.

BACKGROUND

On December 20, 1977, complainants Jules Kimmett, Hy Getoff³, Howard O. Watts, and Ben Gomez (hereafter Complainant(s)) filed a complaint in the Los Angeles Regional Office of the Public Employment Relations Board (hereafter PERB) alleging violations of EERA section 3547(a), (b), (c), (d) and (e) by Los Angeles Unified School District and United Teachers, Los Angeles (hereafter UTLA). The complaint alleged in relevant part that:

1. LAUSD did not have a policy under which the complaint could be resolved;
2. LAUSD distributed a contract proposal at some time after 7:45 in the evening on November 14, 1977;
3. LAUSD reduced the number of weekly public school board meetings from two to one;

²Hereafter all references to California Administrative Code are referred to as "PERB Regulation, section ____." PERB Regulation sec. 37060 states in relevant part:

Voluntary Compliance. Prior to the date set for hearing, the regional office shall contact the respondent or respondents and attempt to obtain voluntary compliance. . . Upon proof to the satisfaction of the Regional Director that the respondent has complied, the Regional Director may dismiss the complaint.

³Mr. Getoff did not sign the complaint, however his name was typed at the end of the document.

4. LAUSD has reduced the customary speaking time at public school board meetings from five (5) to three (3) minutes per speaker;

5. The full Board of Education of LAUSD or even a quorum is not present to hear speakers on agenda topics;

6. LAUSD has placed items which the complainants wish to address at the end of the agenda.

The complaint was referred to an agent of the PERB pursuant to PERB Regulation section 37030(a). After extensive examination and investigation of the complaint, a Notice of Dismissal with Leave to Amend was issued on May 1, 1978 based on the fact the complaint was deficient in failing to comply with PERB Regulations 37010 and 37020 and failed to state a claim pursuant to section 37030.

The complainants did not appeal this ruling and on May 5, 1978, complainant Kimmett sought assistance in filing an amended complaint pursuant to PERB Regulation section 37030(b)(1). With the assistance of PERB agents, an amended complaint, signed only by complainant Kimmett, was filed alleging violations of EERA section 3547(a), (b) and (c)⁴ in that:

1. On November 14, 1977, the District held a public meeting to present contract proposals. When the contract

⁴EERA sec. 3547(a) through (c) states:

- (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.
(Footnote continued.)

proposals were presented, there was no quorum present. Therefore, it was not a valid public meeting. Therefore, section 3547(a) was violated.

2. The public was not given adequate access to the contract proposals. This is a violation of 3547(a) and (b).
3. The public was limited to two weeks of preparation time prior to giving input to the District on November 28, 1977. This is a violation of 3547(b). In a district as large as LAUSD, the public should have at least 30 days to prepare.
4. The public is limited to three minutes of oral comments on this item and that prevents the public from having reasonable opportunity to express itself. This violates 3547(b).

(Footnote 4 continued)

- (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.

5. The District manipulates the order of speakers for the purpose of hindering the regular speakers. This violates 3547(b).
6. On November 14, 1977, the District took items out of order and met in executive session during the Board of Education meeting in order to delay discussion of the initial proposal until members of the public had gone home.⁵

On July 21, 1978, the Regional Director issued a partial dismissal of the amended complaint without further leave to amend and served the remaining allegations of the complaint with a Notice of Hearing scheduled for August 22, 1978.

Pursuant to PERB Regulation 37010, the Regional Director dismissed allegations 1 and 6 of the complaint since they referred to acts known to complainant which occurred more than 30 days prior to the filing of the original complaint. All allegations concerning respondent UTLA were dismissed since no facts were alleged which constituted a violation of section 3547 by that organization. Finally complainants Watts, Gomez and Getoff were dismissed from further participation in the case since they failed to sign the amended complaint. No exceptions were taken to the partial dismissal.

⁵Allegation 7 of the complaint which was later omitted stated:

The 141-page document referred to in the complaint is an initial proposal pursuant to Section 3547.

The remaining allegations of the Amended Complaint which were found to state a prima facie case are set forth as follows:

- (1) Between November 14, 1977 and November 28, 1977, the public was not given adequate access to LAUSD's initial proposals for negotiation with UTLA, exclusive representative for the unit of certificated employees, submitted by LAUSD to its Board on November 14, 1977.
- (2) The public was limited to two weeks of preparation time prior to giving input to LAUSD on November 28, 1977. The two week period is unreasonable considering the size of LAUSD's proposals and the size of the school district.
- (3) The public was limited to three minutes of oral comment on the proposals at the November 28, 1977 public meeting prior to action by LAUSD's Board.
- (4) LAUSD's Board willfully manipulated the order of public speakers on its agenda on November 28, 1977 for the purpose of hindering public input on LAUSD's initial proposals.

On August 16, 1978, LAUSD filed its answer to the Amended Complaint essentially denying the allegations and alleging certain affirmative defenses.

On August 22, 1978, prior to the opening of the formal hearing, the complainant and respondent were asked by the hearing officer to explore settlement of the Complaint.⁶ Settlement discussions ensued for the duration

⁶By telephone and then by letter dated August 5, 1978, the complainant urged that this office should assist the parties in obtaining voluntary compliance and settlement of the complaint without formal hearing (see Exhibit I attached hereto).

of the day and did not conclude until 7:30 P.M. By mutual agreement of the parties, the formal hearing was postponed pending the outcome of settlement discussions. On September 1, 1978, the complainant rejected the settlement offer of LAUSD and the matter was reset for hearing on September 28, 1978.

On September 22, 1978, LAUSD notified this office it had implemented certain amendments to its regulations for public notice hearings. As analyzed below, these amendments appear to meet the substance of the complaint, and, on their face, appear to comply with the policy of PERB Regulation section 37000 et. seq. and provide reasonable time and opportunity for the public to be informed of and express itself regarding initial contract proposals of LAUSD as required by section 3547 of the EERA.

ANALYSIS

Since about September, 1977, LAUSD has had "Public Notice Administrative Regulations" which set forth the general procedures which respondent shall follow in order to comply with the requirements of section 3547 of the EERA and PERB Regulation 37000 et. seq. A copy of LAUSD regulations is attached as Exhibit II. In their present form, the LAUSD regulations essentially track the language of the EERA and PERB regulations.

The LAUSD regulations do provide specific requirements for notice of initial proposals to the public by establishing an active sunshine committee, by maintaining copies of proposals for public inspection, by posting initial proposals

at LAUSD's public Information Unit, by ensuring further circulation and posting of initial proposals at each school, education commission office, central bureau, area administrative office and City Hall within the Los Angeles Unified School District. (See Exhibit II, pp. 2 and 3). Further, the regulations provide for broad public notice of the locations where initial proposals are available for inspection. (Exhibit II, p. 3). LAUSD's regulations also provide a grievance machinery to resolve complaints that the LAUSD regulations or the EERA have not been followed. However, the grievance machinery does not preclude the filing of a complaint pursuant to PERB Regulation 37000 et. seq. (Exhibit II, paragraph E, pp. 1 and 2).

The amendments to respondent's regulations as contained in the declaration of William Sharp substantially expand LAUSD's obligations to afford reasonable opportunity to the public to become informed of and comment upon initial contract proposals of the District. (Exhibit III). Thus, paragraph A requires that at least two regular meetings shall intervene between the meeting at which the initial LAUSD proposal is presented to the public and the meeting at which the proposals are adopted. This rule would require a total of four regular meetings to elapse from the time the initial contract proposal is presented until it is adopted. Since LAUSD regularly meets once a week, the public would be afforded almost one month to become familiar with LAUSD initial contract proposals.

The respondent guarantees to make available to the public approximately 200 printed copies of its initial proposals during the regular meeting at which they are presented and to publicize the availability of the copies on the agenda and during the public meeting. (Exhibit III, paragraph E). This regulation would provide copies to the public at the meeting when the initial proposal is presented. The present LAUSD regulations require substantial distribution of copies of the initial proposal to the public through publication and posting.

The respondent is required to present and adopt initial contract proposals prior to 8:00 P.M. during a regular meeting. This amended regulation would apparently eliminate any possibility that initial contract proposals could be placed so late in the meeting agenda that the interested public will not be present to receive and discuss the initial proposals when they are presented and adopted. (Exhibit C, paragraphs B and D).

The above amendments to LAUSD's regulations appear to meet allegations 1, 2 and 4 of the amended complaint as restated at page 6, supra.

To meet the allegation that the time for public comment has been limited, respondent has amended its rules to permit no less than twenty different speakers, three minutes each, in which to comment on initial contract proposals of the District. (Exhibit III, paragraph E). The LAUSD rules for public comments on all other matters before the School Board permit only seven speakers per topic for a period of three minutes each. (Exhibit IV, LAUSD Rule 131c). Thus, the total time for public comment on initial contract proposals is sixty

minutes at the meeting at which they are adopted. The Board rule for comment on all other issues is twenty-one minutes. Further, since the amendments require the intervention of two regular meetings between the presentation and adoption meeting, the public may also comment under the District's normal rules at each of the intervening meetings.⁷

The amended LAUSD public notice regulations further provide that "[t]he Board, in its discretion, may allow more than twenty speakers. Absent an emergency or other compelling circumstances a quorum of the Board of Education shall be present in the Board Room during the time such speaker speaks, although a speaker may waive this provision. . . ." (Exhibit III, paragraph C).

⁷In paragraph 4 of the original complaint, the complainant alleged LAUSD had reduced the "customary" speaking time from five to three minutes. In paragraph 3 of the amended complaint at p. 6 above, complainant alleges that "the public was limited to three minutes of oral comment on the proposals at the November 28, 1977 meeting prior to action by LAUSD's "Board." This three-minute rule was consistent with the respondent's documented policy of limiting public comment to twenty-one minutes divided amongst seven persons on any topic in the agenda. The amended rule would substantially broaden the time for public comment on initial contract proposals. In addition, the amended rules of the respondent provide for the intervention of two regular meetings during which interested persons could also comment upon initial contract proposals under the three-minute rule. Thus, one individual could speak for nine minutes on the initial contract proposal from the time the proposal is presented until it is adopted.

The amended regulation concerning the time for public input appears to utilize a standard of reasonableness to permit extended public comment at the discretion of the School Board in order to permit full expression of public sentiment. Further, the amended rule requires a quorum of the School Board to be present when the public is speaking to initial contract proposal. This amendment would meet allegations of the original and amended complaint previously dismissed. (See discussion at pp. 3-6, supra.)

Finally, while the amended regulations of LAUSD are couched in terms of "absent an emergency or other compelling circumstances" and "best efforts" of the LAUSD, these phrases do not excuse compliance with the amended rules. Rather, they place the burden of proof upon the LAUSD to show that any deviation from the regulations was done in good faith and with substantial justification.

CONCLUSION

Based upon the above analysis, it is concluded that the respondent has substantially altered its regulations concerning public notice in order to meet the objections of the amended complaint in this action. The PERB regulations require that

[i]t is the policy of the Board to encourage the parties to comply voluntarily with Article 8, Public Notice, Government Code section 3547

The Board urges public school employers to promulgate a local policy to implement Government Code section 3547 and also recognizes that the implementation of that

section, as well as all other provisions of the Act, is most effective when it represents a consensus of all parties and the public

The Board recognizes that there are several methods which may be used to adhere to the Public Notice provisions contained in [the EERA] . . . and urges that application of the law be applied with a maximum of communication between public school employers, exclusive representatives and concerned citizens. (PERB Regulation 37000).

The amended rules of LAUSD appear to meet the concerns which form the bases of the complaint. Moreover, the voluntary action taken by LAUSD goes to concerns raised by allegations which were subsequently eliminated from the complaint by amendment or dismissal. The action taken by LAUSD provides a specific voluntary change in policy.

In light of the fact that the acts complained of concerned a single meeting in November, 1977 and relate to unique facts existing at that time, it is doubtful that this agency could formulate any more specific remedy in light of the rule of reason which underlies the spirit and intent of EERA section 3547 even if complainant were to prevail on all substantive allegations of the complaint.

This conclusion is based upon a reading of the amended LAUSD regulations together with the allegations of the complaint in this matter. Should the amended regulations of LAUSD, as applied, limit the right of public to become informed of and comment upon initial LAUSD contract proposals in the future, this or other complainants shall still have their "day in court" when a specific fact situation presents itself.

ORDER

It is hereby ordered that: (1) the amended complaint shall be dismissed; (2) the respondent shall forthwith file with the Los Angeles Regional Director, with a copy to the complainant, the revised Administrative Regulations incorporating the amendments found in Exhibit III; and (3) the formal hearing scheduled for September 28, 1978 is cancelled.

Pursuant to California Administrative Code, title 8, section 37060, complainant may appeal this dismissal by filing written exceptions with the Board itself at 923 12th Street, Suite 201, Sacramento, CA 95814 within seven (7) calendar days following the date of receipt of this order. Written exceptions should be filed no later than the close of business, 5:00 P.M., October 4, 1978. The exceptions shall be accompanied by a proof of service of the document upon respondent and the Regional Director. The exceptions shall state the grounds upon which the dismissal should be reversed.

Dated: September 27, 1978

FRANCES KREILING
REGIONAL DIRECTOR
/

By

Ken Perea
Hearing Officer

Delivered by Hand

September 27, 1978

Burbank, California

2344 Catalina Street, 91504

Jules Kimmett, Chairman & Melvin Perlitsh, Secretary-Treasurer

848-6917

845-3386 ~ 845-3938

August 5, 1978

10 21 AM '78
PUBLIC AFFAIRS
LOS ANGELES
NATIONAL OFFICE

TO: FRANCES KREILING

FROM: JULES KIMMETT

In our conversation of August 3, 1978 I spoke to you about a meeting to be held at the Board of Education prompted by a conversation with Mr. Steven Babb. A distinct advantage to all members who have not attended where the Board meets and don't know where 450 North Grand Avenue is. I challenge Taxpayers Funds going to O'Melveny & Myers to pay our opponents in this Public Hearing.

I resent the arrogance of Attorney Babb in not using the instrument of preliminary hearings to bargain in good faith and the aggravated contempt of not informing your office concerning its discussion. These actions flaunt and flout the PERB Power. It is imperative and necessary that you as the Regional Director exert the power vested in you to do something other than slap their wrist. Failure to do so is to surrender and abdicate Taxpayers Rights.

It has been 26 days since your letter of July 11, 1978 to Secretary-Treasurer Griffin (per PERB Regulation 32126(a) has been sent. WHY THE DELAY IN NOT REPLYING???

JULES KIMMETT

Shop Steward Local 99 SEIU

"C" Shift Custodians

Los Angeles Valley College

Chairman Concerned Citizens

Committee of Burbank.

JK/ck

PLEASE MAIL RESPONSE TO:

1106-D West Olive Avenue
Burbank, California 91506

EXHIBIT 1

LOS ANGELES UNIFIED SCHOOL DISTRICT
Office of the Superintendent

BULLETIN NO. 18
September 30, 1977

SUBJECT: PUBLIC NOTICE ADMINISTRATIVE REGULATIONS OF THE
LOS ANGELES UNIFIED SCHOOL DISTRICT REGARDING
COLLECTIVE NEGOTIATIONS WITH THE CERTIFICATED
EMPLOYEES

- A. All initial proposals of the certificated exclusive representative and the Los Angeles Unified School District which relate to matters within the scope of representation in Section 3543.2 of the Government Code, shall be presented at a public meeting of the Board of Education. The initial proposals thereafter shall be a public record.
- B. Meeting and negotiating shall not take place on any initial 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 Board of Education.
- C. After the public has had the opportunity to express itself, the Board of Education shall, at a meeting which is open to the public, adopt its initial proposal.
- D. New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the Board of Education, the vote thereon by each member voting shall also be made public within 24 hours.
- E. During any regular meeting of the Board of Education any person representing himself or herself or an organization may complain to the Board of Education that the provisions of Government Code Section 3547 or this policy have not been followed. Within fifteen (15) working days and at a regular meeting the Board of Education shall review the complaint and make a decision on said complaint. The decision of the Board of Education shall be final.

The Board of Education's complaint procedure shall not prohibit any person from filing a complaint with the Educational Employment Relations Board as provided in Chapter 7, Public Notice Proceedings, of that Board's rules and regulations. A copy of Chapter 7 will be provided by the

Public Information Office or the Office of Staff Relations upon request. The Board of Education or the Educational Employment Relations Board's complaint procedures shall not prohibit the parties from continuing the negotiation process pending the resolution of any complaint filed.

- (F. The District shall recognize the "Sunshine Committee", which includes representatives from the League of Women Voters, the 10th and 31st PTA Districts, Area Advisory Councils, Citizens' Management Review Committee, Superintendent's Resource Committee for Sex Equality, the city-wide Student Affairs Council and the four Ethnic Education Commissions. The Committee shall serve on an ad hoc basis to the Personnel and Schools Committee of the Board of Education. Its primary purposes shall be as follows:

1. To convene public meetings at least monthly to provide for an exchange of information, questions, and answers among the committee members regarding initial and subsequent proposals by the parties. Such meetings may include dialogue with the Exclusive Representative and with the Board of Education's negotiator.
2. To develop a proposal to further implement Government Code Section 3547, Public Notice, which represents the consensus of all parties and the public and provides for a maximum of communication between concerned citizens, the certificated exclusive representative and the Board of Education.

- G. The District shall make the Board of Education and the exclusive representative's proposals accessible to the public in the following manner:

The Public Information Unit and the Office of Staff Relations shall maintain a file of all initial and subsequent proposals, each of which shall be available for public inspection during regular working hours on the day following presentation. The Staff Relations' Office will respond to questions of the public on collective bargaining.

Such files shall also include within 24 hours the position of each Board Member if orally expressed by vote at a public meeting.

A copy of initial proposals presented at a public meeting of the Board of Education shall be posted and available for inspection and review through the Public Information Unit until such time as negotiations are completed. This information, within a reasonable period of time, will be available in the following locations:

1. Each school within the District during school hours. Each principal shall advise the chairperson of the advisory council, PTA/PTSA, and other recognized school community groups as to all information received by the school on the subject of collective bargaining.
2. The Tenth and Thirty-first District Parent-Teacher Association Offices.
3. Each Education Commission Office.
4. Each Central, Business, and Area Administrative Office.

In addition to the above, the Public Information Unit will mail a copy of initial proposals to each City Hall within the school district and request that the City Clerk of each respective City Hall post the same for public viewing.

H. Sources of Information.

Prior to meeting and negotiating, the public may become informed and have the opportunity to express itself at a public meeting of the Board of Education regarding an initial proposal. Publications containing announcements or summaries of any initial proposal made by the District or an Exclusive Representative will indicate the various locations at which the full proposal may be reviewed. Such informative publications will be issued through the Public Information Unit and will include the following:

1. Public Information Unit Board Action flier for posting in schools, offices, public libraries, and governmental agency locations within District boundaries, and posting on the Board of Education bulletin boards at Area, Central and Business Center Offices.
2. Spotlight.
3. Press releases to newspapers, radio and television.
4. Special Interim Report on Negotiations for school and office posting.

BULLETIN NO. 18
September 30, 1977

-4-

Office of the Superintendent

The Sunshine Committee shall report to the Personnel and Schools Committee periodically. The Sunshine Committee is charged with developing a proposal to further implement Government Code Section 3547 on or before June 30, 1978. Until a proposal is developed and adopted by the Board of Education this policy shall be the administrative regulations of the District.

For assistance please contact William J. Sharp, Assistant Superintendent, Staff Relations, 625-6255.

APPROVED: William J. Johnston

DISTRIBUTION: All Schools and Offices

1 O'MELVENY & MYERS

2 611 WEST SIXTH STREET

3 LOS ANGELES, CALIF. 90017

4 TELEPHONE: (213) 620-1120

5 Attorneys for Defendant
6 Los Angeles Unified School District

7
8 STATE OF CALIFORNIA

9 PUBLIC EMPLOYMENT RELATIONS BOARD

10
11 JULES KIMMETT,

12 Complainant,

13 vs.

14 LOS ANGELES UNIFIED SCHOOL DISTRICT,

15 Respondent.
16

) CASE NO. LA-PN-2
)
)

) DECLARATION OF
) WILLIAM J. SHARP
)
)
)

17
18 I, WILLIAM J. SHARP, declare:

19
20 1. I am the Assistant Superintendent, Office of
21 Staff Relations, of the Los Angeles Unified School District
22 (the "District").

23
24 2. My duties include formulating the District's
25 policies regarding compliance with the Rodda Act, Government
26 Code Section 3540 et. seq., including Section 3547 thereof
27 on the subject of public notice.

28 ///

3. This action involves allegations that the District did not comply with Government Code Section 3547 in presenting to the public and in adopting certain initial certificated contract proposals. In an effort to achieve voluntary compliance pursuant to Section 37060 of the Rules and Regulations of the Public Employment Relations Board, but without admitting or agreeing that such actions are required by statute or regulation, the District has determined to add certain provisions to its present regulations governing public notice for negotiation matters. Attached hereto as Exhibit A and incorporated herein by reference is a copy of these new provisions. These provisions will become effective immediately.

I certify and declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, Los Angeles County, California
this 21st day of September, 1978.

WILLIAM-J. SHARP

- A. Absent an emergency or other compelling circumstances, the District will allow the intervention of at least two regular meetings of its Board of Education between the time that its initial certificated contract proposals are first presented to the public at a Board meeting and the meeting at which such proposals are adopted.
- B. The District will use its best efforts to insure that its initial certificated contract proposals are presented to the public before 8:00 P.M. during regular meetings of its Board of Education. The public shall thereafter have an opportunity to express its views on such proposals.
- C. Each public speaker addressing the issue of such proposals shall be permitted to speak for three minutes at Board meetings during which such proposals are adopted. A total of twenty different public speakers shall be permitted to address the issue of initial certificated contract proposals at such meetings if twenty persons indicate a desire to do so. Speakers shall not be permitted to waive their time to other speakers. The Board in its discretion

may allow more than twenty speakers. Absent an emergency or other compelling circumstances, a quorum of the Board of Education shall be present in the Board Room during the time such speakers speak, although a speaker may waive this provision and continue speaking when a quorum is not present.

- D. After the public has had an opportunity to express itself, the Board of Education shall, at a meeting which is open to the public, adopt its initial certificated contract proposals. The District will use its best efforts to insure that consideration of the matter of adoption of its initial certificated contract proposals shall commence before 8:00 P.M. at regular Board meetings.
- E. At least 200 copies of such proposals shall be available to members of the public at meetings during which those initial contract proposals are presented to the public by the Board. The agenda or Order of Business for such meeting shall note the availability of such proposals. An announcement shall be made at such meeting that copies will be available to the public at the time that the Board acts to present the proposals to the public.

BOARD RULE 131

Taken from Regular Board Meeting Minutes - October 31, 1977

131. At the discretion of the Board, any person, as an individual or as a representative of a group, may be granted permission to address the Board by oral presentation at a Regular Meeting concerning any subject that lies within the jurisdiction of the Board, provided the requirements and procedures herein set forth are observed.

- a. A request to address the Board shall be made to the Clerk of the Board before 10:00 a.m. of the day of the meeting of the Board at which the oral presentation is to be made. In addition, a speaker's card confirming this request shall be filed with the Clerk of the Board by 3:00 p.m. on the same day. Information on the card shall include name, address, and telephone number of the person wishing to speak, name of group represented, if any, and a concise statement describing the exact nature of the subject or subjects to be discussed. However, persons wishing to speak to an item on the Committee of the Whole agenda to be acted upon at the Regular Meeting of the Board on the same day may be heard at the Regular Meeting providing a speaker's card has been filed with the Clerk of the Board at the conclusion of the meeting of the Committee of the Whole.
- b. No speaker shall be permitted to address the Board on a topic which is before a Board Committee until that committee has completed its deliberations and reported to the Committee of the Whole. Prior to this action, speakers may be heard in committee.

- c. There shall be no more than ten (10) speakers at any regular meeting of the Board on nonagenda items. Three minutes shall be allotted to each speaker, and a maximum of twenty-one minutes to each subject matter. The number of speakers on any one topic shall be limited to seven (7), except as provided below:
 - 1. Representatives of groups wishing to speak to any one topic shall be limited to three minutes per speaker provided the time does not exceed a total of twenty-one minutes.
 - 2. When there are speakers in opposition to each other on a topic, they shall be limited to three for each side.
 - 3. There is nothing which precludes the Board from amending these rules when necessary.
- d. Speakers to items other than those on the agenda shall be limited to two (2) appearances per month at a Regular Board Meeting.
- e. There is nothing in this section which precludes the President, with concurrence of the Board, from calling a special meeting for the sole purpose of hearing speakers.
- f. No oral presentation shall include charges or complaints against any employee of the Board of Education, regardless of whether or not the employee is identified in the presentation by name or by any other reference which tends to identify him. All charges or complaints against employees shall be submitted to the Board under the provision of Rule 133.
- g. Oral presentations to the Board are subject to the further provisions contained in Rules 132 to 139.

h. The speaker's card will state the speaker's willingness to abide by the rules of the Board and rulings of the Chair in support of respectfully conduct and language as well as the avoidance of disruptive activities, or risk curtailment of the privilege of addressing the Board publicly.