

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



DR. LOUIS FEIN,)
)
Charging Party,) Case No. SF-PN-5
)
v.) PERB Order No. Ad-112
)
PALO ALTO UNIFIED SCHOOL DISTRICT,) Administrative Appeal
and PALO ALTO EDUCATORS ASSOCIATION,)
CTA/NEA,) August 11, 1981
)
Respondent.)
_____)

Appearances: Diane Ross, Attorney for Palo Alto Educators Association.

Before Gluck, Chairperson; Jaeger and Moore, Members.

DECISION

This case is before the Public Employment Relations Board (hereafter PERB or Board) on an appeal by the Palo Alto Educators Association (hereafter Association) to the attached determination by the executive assistant to the Board that the Association's "Response to Appeal of Regional Director's Dismissal of Complaint" in this case was not timely filed. The PERB rules governing the filing of a response to an appeal of a regional director's dismissal of a public notice complaint are unequivocal and unambiguous.¹ Such responses are required to

_____ ¹PERB rules are codified at title 8, section 31000

be filed in the headquarters office in Sacramento. The Association's response was filed instead in the Board's San Francisco regional office on the last filing date due to an Association "clerical error." The clerical error noted above does not constitute the existence of extraordinary circumstances as required by PERB rule 32133² which would justify late filing of the Association's response.

ORDER

The Board AFFIRMS the determination of the Executive Assistant to the Board and DENIES the appeal.

PER CURIAM

et seq. of the California Administrative Code. Section 32135 provides:

All documents shall be considered "filed" by a party when actually received by the proper recipient before the close of business on the last date set for filing.

Section 32375 provides in relevant part:

Within 10 days following the date of service of the appeal, any party may file a response to the appeal. The response shall be filed with the Executive Assistant to the Board.

²PERB rule 32133 reads:

A late filing may be excused in the discretion of the Board only under extraordinary circumstances.

PUBLIC EMPLOYMENT RELATIONS BOARD

Headquarters Office
1031 18th Street, Suite 200
Sacramento, California 95814
(916) 322-3088



June 11, 1981

Diane Ross
1705 Murchison Drive
Burlington, CA 94010

Re: Palo Alto USD, SF-PN-5

Dear Ms. Ross:

This will acknowledge receipt of the response to appeal of Regional Director's Dismissal of Complaint in the above captioned case. Unfortunately, your response was not timely filed and cannot be presented to the Board itself.

My letter of May 19, 1981 addressed to Palo Alto Unified School District and to Palo Alto Educators Association in Mountain View stated that responses were due in this office on or before June 1, 1981. Your response was filed in the San Francisco Regional Office on June 1, 1981 rather than in our Headquarters Office.

You may appeal this rejection of your filing to the Board itself in accordance with Section 32360. If you choose to do so, your appeal is due on or before ten (10) days after service of this letter, on Monday, June 22, 1981.

Sincerely,

✓ |
J. Stephen Barber
Executive Assistant to the Board

JSB:ts

cc: Louis Fein
Robert E. McLean
Kathryn Hoover Calfee