

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



TRUSTEES OF THE CALIFORNIA STATE
UNIVERSITY,

Employer,

and

CALIFORNIA FACULTY ASSOCIATION,

Exclusive Representative.

CALIFORNIA ALLIANCE OF ACADEMIC
STUDENT EMPLOYEES/UAW,

Joined Party.

Case No. LA-UM-723-H

Administrative Appeal

PERB Order No. Ad-344-H

December 28, 2004

Appearance: Joel Block, Labor Relations Manager, for Trustees of the California State University.

Before Duncan, Chairman; Whitehead and Neima, Members.

DECISION

DUNCAN, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on a motion for acceptance of a late-filed response by the Trustees of the California State University (CSU) to the California Faculty Association's (CFA) request for judicial review of Trustees of the California State University (2004) PERB Order No. Ad-342-H. The Board finds good cause exists to allow the late filing of CSU's response to CFA's request for judicial review based on the discussion below.

DISCUSSION

CFA filed a request for judicial review and timely served it. CSU and the California Alliance of Academic Student Employees/UAW (CAASE/UAW) each filed a response. The response was due in the PERB Appeals Office on October 29, 2004 (a Friday). The response

from CAASE/UAW was timely received but the response from CSU was one business day late. It was mailed on October 28, 2004, but not received until Monday, November 1, 2004.

CSU, in its appeal of the determination that the response was late-filed, states that due to a reorganization of job assignments the staff person mailing the response was not familiar with the office practice of mailing and faxing the response to the PERB Appeals Office. (Appeal of CSU, p. 2:12-17; Declaration of Joel Block, p. 2:2-6.)

CSU states there was no prejudice to CFA in that the copy of the response was timely received by CFA. (Appeal of CSU, p. 2:19-22; Declaration of Joel Block, p. 2:13-16.)

In the past, the Board has found good cause existed where the reason for the delay was "reasonable and credible" (Barstow Unified School District (1996) PERB Order No. Ad-277) and "when the party made a conscientious effort to timely file and the delay caused no prejudice to any party in the case" (United Teachers of Los Angeles (Kestin) (2003) PERB Order No. Ad-325).

As stated in Fullerton Elementary School District (2004) PERB Order No. Ad-339 "[t]he Board does not condone late filing and will only consider a request to accept a late filing in circumstances consistent with the case law indicating an honest error, coupled with an expedient and thorough explanation." We find that good cause to accept the late filed response of CSU does exist in this incidence.

ORDER

The Trustees of the California State University's request that the Board accept its late-filed response to the California Faculty Association's request for judicial review in Trustees of the California State University (2004) PERB Order No. Ad-342-H is hereby GRANTED.

Members Whitehead and Neima joined in this Decision.