

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



VICTOR VALLEY COMMUNITY COLLEGE
DISTRICT,

Employer,

and

POLICE OFFICERS ASSOCIATION, VICTOR
VALLEY COMMUNITY COLLEGE DISTRICT –
POLICE DEPARTMENT,

Petitioner,

and

CALIFORNIA SCHOOL EMPLOYEES
ASSOCIATION AND ITS CHAPTER 584,

Exclusive Representative.

Case No. LA-SV-164-E

Request for Reconsideration
PERB Order No. Ad-388

PERB Order No. Ad-388a

February 17, 2011

Appearance: Craig Baumbusch, President, for Police Officers Association, Victor Valley Community College District – Police Department.

Before Dowdin Calvillo, Chair; McKeag and Wesley, Members.

DECISION

WESLEY, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by the Police Officers Association, Victor Valley Community College District – Police Department (Association) of the Board's decision in *Victor Valley Community College District* (2010) PERB Order No. Ad-388. In that decision, the Board affirmed the Board agent's dismissal of the Association's petition to sever most, but not all, of the campus police officers and campus reserve police officers from the existing bargaining unit represented by the California School Employees Association and its Chapter 584 (CSEA).

The Board has reviewed the entire record in light of the Association's request and the relevant law. Based on this review, the Board denies the Association's request for reconsideration.

DISCUSSION

Requests for reconsideration are governed by PERB Regulation 32410,¹ which states in pertinent part:

The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence.

As reconsideration is granted only under "extraordinary circumstances," the Board strictly applies the above criteria. (*Regents of the University of California* (2000) PERB Decision No. 1354a-H.)

The Association contends the Board's decision is based on prejudicial error of fact. In its severance petition, the Association sought to represent a unit of campus police officers and campus reserve police officers. However, the Association expressly excluded two individuals in those classifications from its petition because the Association believed those individuals did not hold the proper certifications to meet the requirements for peace officer status under the Penal Code.

In finding that the proposed unit was not an appropriate unit, the Board determined that by excluding the two officers those two classifications remained in the existing unit represented by CSEA. This resulted in having the same classifications in both the proposed and existing units. Therefore, the Board held that employees in the proposed unit had a

¹ PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

community of interest with employees in the existing unit, and that the proposed unit would adversely affect the efficiency of operations of the employer, the Victor Valley Community College District (District), by having to bargain with two different units over the same classifications. In its decision, the Board found that it lacked jurisdiction to require the District to comply with the Association's interpretation of the Penal Code regarding the two officers at issue.

The Association contends the Board erred by failing to determine that the two excluded officers were not peace officers under the Penal Code and, therefore, find they were properly excluded from the proposed unit. In essence, the Association's request for reconsideration reiterates the arguments it made on appeal. However, restating arguments made on appeal does not satisfy PERB Regulation 32410. (*San Leandro Unified School District (2007)* PERB Decision No. 1924a.)

Accordingly, the Association's request for reconsideration is denied because it fails to establish the criteria for reconsideration set forth in PERB Regulation 32410.

ORDER

The Association's request for reconsideration of the Public Employment Relations Board's decision in *Victor Valley Community College District (2010)* PERB Order No. Ad-388 is hereby DENIED.

Chair Dowdin Calvillo and Member McKeag joined in this Decision.