

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



COMPTON COMMUNITY COLLEGE FEDERATION  
OF TEACHERS,

Charging Party, PETITIONER,

v.

COMPTON COMMUNITY COLLEGE,

Respondent.

Case No. LA-CE-355  
(78/79)

PERB Order No. IR-7

Administrative Appeal

October 3, 1978

Appearances: Darwin Thorpe, President for Compton Community College Federation of Teachers; William D. Plosser (William D. Plosser and Associates) Representative for Compton Community College.

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

DECISION

The Compton Community College Federation of Teachers (hereafter CCCFT) by letter dated August 23, 1978, requests the Public Employment Relations Board (hereafter PERB) to seek injunctive relief against Compton Community College (hereafter College) compelling the College to reinstate a laboratory assistant terminated on August 18, 1978. PERB denies the request.

FACTS

The underlying unfair practice charge alleging that the College violated sections 3543.5(a), (b), and (d); and 3543.1(a)<sup>1</sup>

<sup>1</sup>Gov. Code sec. 3543.5(a), (b), (d) states:

3543.5. It shall be unlawful for a public school employer to:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(cont.)

of the Educational Employment Relations Act<sup>2</sup> (hereafter EERA) by the College's threatened termination of a laboratory assistant was filed on July 24, 1978.<sup>3</sup>

Effective August 18, 1978 the College terminated the employment of Ellen Lodan as a laboratory assistant in the life sciences division. The termination was ostensibly due to anticipated budget reductions which also prompted termination of 19 other classified employees.

CCCFT contends that termination of the laboratory assistant will irreparably harm the organizational rights of the certificated members of CCCFT and two CCCFT officers in the life sciences department by increasing their workload and, thus, preventing them from conducting organizational and representational activities. Further, CCCFT contends that the reputations of

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(b) Deny to employee organizations rights guaranteed to them by this chapter.

.....  
(d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.

Gov. Code sec. 3543.1(a) states in pertinent part:

3543.1. (a) Employee organizations shall have the right to represent their members in their employment relations with public school employers, except that once an employee organization is recognized or certified as the exclusive representative of an appropriate unit pursuant to Section 3544.1 or 3544.7, respectively, only that employee organization may represent that unit in their employment relations with the public school employer.

<sup>2</sup>The Educational Employment Relations Act is codified at Gov. Code sec. 3540 et seq.

<sup>3</sup>The unfair practice charge complained of other alleged acts of the College which CCCFT did not subsequently seek to be enjoined.

its certificated members and Compton Community College will irreparably suffer from inadequately staffed classes. These contentions of CCCFT are wholly unsupported by affidavits or declarations.

The normal processes of PERB are inadequate, CCCFT contends, because the case will be rendered moot if the discharge is allowed to stand.

#### DISCUSSION

Under section 3541.3(j) of the EERA,<sup>4</sup> PERB has discretionary authority to petition the court for appropriate injunctive relief. On July 5, 1978, PERB adopted a policy for the guidance of the parties in requesting that PERB exercise its discretion and seek injunctive relief.<sup>5</sup>

<sup>4</sup>Gov. Code sec. 3541.3(j) provides:

3541.3 The board shall have all of the following duties:

.....

(j) To bring an action in a court of competent jurisdiction to enforce any of its orders decisions or rulings or to enforce the refusal to obey a subpoena. Upon issuance of a complaint charging that any person has engaged in or is engaging in an unfair practice, the board may petition the court for appropriate temporary relief or restraining order.

<sup>5</sup>Procedure for Filing Requests for Injunctive Relief, stating:

(a) A party who wishes the Board to seek injunctive relief pursuant to section 3541.3(j) shall file an original and four copies of such request for injunctive relief with the Board itself at the headquarters office. The request shall contain the following:

(1) A copy of the underlying unfair practice charge;

(2) The date the unfair practice charge was filed;

(cont.)

Two of the prerequisites for the issuance of an injunction are the likelihood of irreparable harm and the inadequacy of the normal legal remedy.<sup>6</sup> CCCFT contends that irreparable

(3) Affidavits and other appropriate evidence setting forth the specific facts upon which the request is based;

(4) A full description of the irreparable injury which the requesting party alleges it will suffer if the request is not granted;

(5) The basis for contending that the Board's normal processes and remedies are inadequate;

(6) The legal theory which supports the requesting party's belief that it will likely prevail on the merits of the underlying unfair practice charge; and

(7) A statement of the relief sought.

(b) In order to be considered filed, a copy of the request must have been actually served upon the charged party or parties prior to filing the request, and a statement of such service shall accompany the request. "Actual service" as used in this section means actual receipt by the party or its agent.

(c) The Executive Assistant to the Board will notify the respondent of their right to file with the Board itself such evidence, including affidavits, as it may deem proper to rebut the request and the final date for said response to be actually received by the Executive Assistant to the Board at the Headquarters Office in Sacramento.

(d) The Board itself with the advice of its General Counsel shall, immediately upon expiration of the charged party's rebuttal period, consider the request for injunctive relief and shall determine whether or not to issue a complaint and seek injunctive relief. If the Board itself determines the request should be denied, it will so notify all parties in writing.

<sup>6</sup>San Ysidro School District (8/8/78) PERB Order No. IR-4; Weingard v. Atlantic Savings & Loan Association (1970) 1 Cal.3d 806.

damage will be done to the reputations of the life science instructors and to the District because the District-adopted course content cannot be fully presented as expected by the students. This is, however, an abstract argument unsupported by competent evidence in the form of affidavits or declarations and is purely speculative.

CCCFT also contends that in the absence of injunctive relief the case will be rendered moot. The Board has difficulty grasping CCCFT's argument in this regard. The source of this confusion may stem from CCCFT's use of the word "moot." Used in its legal sense, a case becomes moot when changed circumstances or subsequent events dissipate the underlying controversy.<sup>7</sup> The gist of CCCFT's argument would therefore be that failure to reinstate the terminated laboratory assistant would resolve the dispute between CCCFT and the District regarding the effect of this termination. But it is obvious that lack of reinstatement will not effect a cure. Rather, any burden in fact imposed by reduced staff time and energy for CCCFT organizing will be perpetuated.

To the extent that CCCFT intends to use moot in its colloquial<sup>8</sup> sense to reiterate its view that relief obtained through the normal processes of the Board may come too late, the mere fact that the effect of the discharge continues does not render the harm irreparable; nor does it preclude remedy by the Board's normal processes.

We do not by this decision, pass on the merits of the underlying unfair practice charge.

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<sup>7</sup>Though a case may originally present an existing controversy, if, before a decision is reached, the acts of the parties or other causes have dissipated the controversy and there is no longer an actual dispute, the case is rendered moot and may not be considered. See National Assn. of Wine Bottlers v. Paul (1969 268 Cal.App.2d 741, 746).

<sup>8</sup>Webster's Third International Dictionary defines "moot" in this sense as: "deprived of practical significance: made abstract or purely academic."

## ORDER

On the basis of the foregoing decision, the request for injunctive relief, and the attached unfair practice charge before it the Public Employment Relations Board denies the request by the Compton Community College Federation of Teachers for injunctive relief against Compton Community College pending determination of said unfair practice charge.

**By:** Jerilou Cossack Twohey, Member

Harry Glück, Chairperson

Raymond J. Gonzales, Member

State of California JUL 24 11 25 AM '78  
Public Employment Relations Board

UNFAIR PRACTICE CHARGE

	DO NOT WRITE IN THIS SPACE
INSTRUCTIONS: File an original and three (3) copies of this charge in the appropriate regional office of the Public Employment Relations Board. If additional space is needed for any item, attach additional sheets and number items accordingly.	Case name: COMPTON COMMUNITY COLLEGE FEDERATION OF TEACHER v. COMPTON COMMUNITY COLLEGE
	Case no: LA-CE-355-78/79
	Date filed: July 24, 1978

1. CHARGING PARTY: ( ) EMPLOYEE (X) EMPLOYEE ORGANIZATION ( ) EMPLOYER

a. Full name: Compton Community College Federation of Teachers

b. Mailing address: 1111 E. Artesia Blvd, Compton, Calif. 90221

c. Telephone number: (213 area code) 635-8081

d. Name, title and telephone number Darwin Thorpe, President  
of agent filing charge, if any: 635-8081, ext 370

2. CHARGE FILED AGAINST: ( ) EMPLOYEE ORGANIZATION (X) EMPLOYER

a. Full name: Compton Community College

b. Mailing address: 1111 E. Artesia Blvd., Compton, Calif. 90221

c. Telephone number: (213 area code) 635-8081

d. Name, title and telephone number Dr. Abel B. Sykes, Jr., Pres./Superintendent  
of agent to contact, if any: 635-8081

3. NAME OF EMPLOYER (Complete this section only if the charge is filed  
against an employee organization)

a. Full name:

b. Mailing address:

4. GRIEVANCE PROCEDURE

a. Has any grievance procedure been invoked in relation  
to the subject matter of this charge? (Circle answer) Yes \* No

b. If "yes," when? 1st Charge--Apology demand--April 26, 1978.  
2nd Charge--Document demand--June 19, 1978 3rd Charge--Oral protest  
to Board of Trustees on June 20, 1978.

\*Because of the administrative/Board to faculty relationship at  
Compton College, there is no formal grievance procedure in  
effect through which fruitful resolution of problems can occur.

SEE REVERSE SIDE

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5. STATEMENT OF CHARGE

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The charging party hereby alleges that the above-named respondent has engaged in or is engaging in an unfair practice within the meaning of section 3543.5 or 3543.6. The specific section(s) (and subsection where appropriate), alleged to have been violated is/are: Gov. Code Sections 3543.5 (a), (b), and (d); 3543.1 (a); and 6250 et. seq.

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of the California Government Code, in that: *(Provide a clear and concise statement of the conduct alleged to constitute an unfair practice, including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved.)*

Charge 1:

On April 11, 1978, Mr. Henry D. Dawkins, Trustee of the respondent, characterized the union's questioning of District's management practices, including District denial of documents requested pursuant to Gov. Code Sec. 6250 et. seq., as "...unprofessional..." Again, on May 11, 1978, Mr. Dawkins characterized the union's more in-depth allegations of District mismanagement and faculty vote of no confidence for the District Superintendent as a, "scurrilous attack..." on the District. Attempts to obtain written or verbal rebuttal to our documentation, or explanations of our "unprofessional" or "scurrilous conduct", and a letter demanding an apology for what we perceive to be reprehensible and possible slanderous behavior on the part of the Vice president of the Compton College Board of Trustees, have gone unheeded.

We consider this Trustee's actions to be demaning of union leadership, and an interference with the formation and administration of our organization pursuant to Gov. Code Sec. 3543.5 (d).

Charge 2:

On July 10, the union made its final request for what we feel are extremely important District documents--pursuant to Gov. Code Sec. 6250 et. seq. This request was partly granted by a letter which we are sure was incorrectly dated July 7, but received by our attorney on July 12, 1978! Identical requests for the same documents were made by the United Faculty of Compton Community College on May 10, May 23, and June 19; all were denied.

Because of the foregoing delays in provision of documents--and denial of some documents--we are unable to represent our members in their employment relations--particularly as this pertains to salary and working conditions negotiations--pursuant to Gov. Code Sec. 3543.1 and 3543.5 (b).

(see appended page for Charge 3)

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DECLARATION

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I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief.

Signed: *Jan - [Signature]* Date: July 21, 1978

Title, if any: President, CCCFT, Local 3486

Mailing address: 1111 E. Artesia Blvd., Compton, Calif. 90221

Telephone number: 635-8081 ext. 370 (office)  
(213) 423-3336 (home)

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July 21, 1978

page three, item # 5.

Charge 3:

On June 20, and without consultation with any of the instructors involved, and on the basis of an "eleventh hour" oral amendment to the Board of Trustees's regular agenda by the Superintendent on June 20, 1½ laboratory assistants in the life science area were layed off, effective July 21, 1978. On July 11, the life science instructors were told "through the grapevine"--there is no faculty-level, departmental or Division persons responsible for general administrative functions presently in existence at Compton College--that the layoff for the full time position had been moved up to July 17, because accumulated vacation and compensatory time credits had to be used before the effective date of termination on July 21.

Following written documentation in defense of the full-time position, the Dean of Instruction, Dr. Eugene Simms, granted an extension of this position through August 18, 1978, and the employee's status was changed to that of a Limited Term employee. Because of accrued time off credits mentioned above, this extension will actually terminate on or about Aug. 11, 1978.

The above layoffs, ostensibly based on economic grounds, were made even though:

- 1) a documented protest was lodged the evening of June 20 before the Board of Trustees, and on July 3 and July 12 based upon their impact on the total laboratory program of the life science area, and
- 2) the full-time laboratory assistant in a different job classification in the physical science area--an area with fewer courses and less enrollment and where three of the five full-time instructors have been layed off--was allowed to stand, and
- 3) no enrollment reduction, financial or laboratory assistant seniority consideration peculiar to the life science area exists.

Because all members of the life science area are union members--two of them--the Secretary and President of the union--leaders in the campus-wide effort to achieve exclusive representation for the union and to elicit Board and Administrative performance of their legally and ethically-constituted responsibilities, we consider the assistant layoffs as not only seriously undermining our ability to teach in our accredited programs, but as part of a continuing pattern of discrimination against our union through reprisals against some of our members and officers. Our loss of time which might be more profitably spent on educational matters represents a cynically-motivated attempt to discredit us professionally in clear violation of Gov. Code Sec. 3543.5 (a).

PUBLIC EMPLOYMENT RELATIONS BOARD

COMPTON COMMUNITY COLLEGE FEDERATION OF  
TEACHERS,

Charging Party,

v.

COMPTON COMMUNITY COLLEGE DISTRICT,

Respondent.

Case No. LA-CE-355-78/79

AMENDED NOTICE OF INFORMAL CONFERENCE\*

PLEASE TAKE NOTICE that on the 18th day of August, 19 78  
at Public Employment Relations Board, 3550 Wilshire Boulevard, Suite 1708,  
Los Angeles, California, beginning at 1:30 P.M., an  
informal conference will be held pursuant to Cal. Admin. Code, title 8,  
section 32670 on an unfair practice charge filed by the above-named charging  
party against the above named respondent(s) before a representative of the  
Public Employment Relations Board, at which time the parties should appear in  
person, by counsel, or other representative.

At said conference, the parties should be prepared to discuss the issues  
and where possible, reach agreement thereon and/or reduce the number thereof.  
At said conference the date for the formal hearing if not yet set, may be set.  
The parties should be prepared for a formal hearing on the charge to be  
scheduled within 20 days of the date of the informal conference, unless by the  
mutual agreement of the parties, with the approval of the Board agent, or for  
other good cause, it is set for a later date.

DATED: August 8, 1978

WILLIAM P. SMITH  
General Counsel

\*This notice supersedes notice  
dated July 25, 1978. Charging  
Party has requested that only  
the time be changed from 10:00 A.M.  
to 1:30 P.M. on August 18, 1978.

By Bruce Barsook  
Hearing Officer  
PERB-68 (6/78)