LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

In the Matter of the LAS VEGAS FEDERATION OF TEACHERS, LOCAL 2170, A.F.T., Complainant, vs. CLARK COUNTY SCHOOL DISTRICT and CLARK COUNTY CLASSROOM TEACHERS ASSOCIATION, Respondents.	CASE No. A1-00427

DECISION ON REHEARING

On January 27, 1972, the Las Vegas Federation of Teachers, Local 2170, of the American Federation of Teachers, filed a complaint against the Clark County School District and the Clark County Classroom Teachers Association (the CCCTA) alleging that the CCCTA was unlawfully dominated by administrators and principals because of CCCTA's affiliation with the Nevada State Education Association (the NSEA) and the National Education Association (the NEA). The complaint is predicated on the provisions of NRS 288.270(1)(b) which prohibits a local government employer from dominating, interfering or assisting in the formation or administration of any employee organization.

After hearing and briefing, the Board rendered its decision on June 9, 1972, finding that the CCCTA was not dominated by administrators and principals, but, that the compulsory membership in NSEA and NEA which is required upon joining the CCCTA was in violation of NRS 288.270(2)(a). The complaint was dismissed and the CCCTA ordered to remove within 90 days any compulsory requirement for a teacher to join NSEA or NEA. The CCCTA was further ordered to make the fact of voluntary membership known to all its members.

On July 17, 1972, the CCCTA petitioned the Board for a rehearing on the compulsory membership determination. The Clark County School District voiced no objection to the rehearing and the complainant submitted the question of a rehearing to the Board's sound discretion without a formal response to the petition.

A notice of rehearing on the entire decision was directed to the parties and the rehearing was held on September 26, 1973. Post-hearing briefs were submitted by the parties.

The testimony and documentary evidence presented discloses that the CCCTA is an association of persons employed by the Clark County School District on the teachers' salary schedule who are neither administrative nor supervisory personnel. An individual otherwise qualified to join the CCCTA is also required to join the NSEA and NEA as a condition to membership in the CCCTA. The membership dues in all three organizations are deducted from the member's salary and transmitted to the CCCTA.

Unlike the CCCTA, the NSEA does not deny membership to individuals who are administrators or principals. Of the total membership of approximately 4,700 in the NSEA, it was estimated that 125 are administrators or principals. The By-Laws of the NSEA make provision for the representation of five special interest groups on the Board of Directors; the special interest group designated "School Administrators" is provided three seats on the Board, as is each other special interest group. Additionally, the Board is composed of the four officers of the NSEA, resulting in a total membership on the Board of nineteen. During the last four years, with one exception, the officers of the NSEA have been classroom teachers. At present, all the officers are classroom teachers.

The testimony further disclosed that the membership of administrators and principals in the NSEA is steadily declining.

In its relationship with the CCCTA, the NSEA does not control or formulate policy for the CCCTA, it does, upon request, provide technical support to assist the CCCTA in preparing their package of proposals for negotiation and in other matters.

The NEA, like the NSEA, provides for administrators and principals to be members of the organization. Approximately 5.5% of the membership of NEA may be deemed administrators or principals. Currently, two of the ten members of the Executive Committee of the NEA are administrators and twenty four of the one hundred and four members of the Board of Directors are administrative personnel. The testimony indicated that recent actions of the Representative Assembly of the NEA will change the Association's Constitution and By-Laws to diminish the participation of administrators and principals. Also, there is a trend toward less administrative and supervisory membership in the NEA.

Each affiliate of the NEA, such as the CCCTA, remains substantially autonomous; it receives publications from the NEA and may request direct services from the NEA, such as technical assistance from the field staff to assist them in their preparation for collective bargaining.

Additionally, the CCCTA, as a local affiliate of the NEA, receives $9,000 to assist in the funding of a position known as the UniServ Representative. The UniServ Representative may be called upon by NEA to render services outside the State of Nevada for a period of up to 20 days a year. However, the utilization of his time by NEA is subject to the approval of the CCCTA. The UniServ Representative's selection and the termination of his services are controlled by the CCCTA. The functions of the

UniServ Representative include the coordination of services at the local level and the elimination of duplication of services by the CCCTA, NSEA and NEA.

Testimony was also received which disclosed that unified membership in local, state and national organizations is not uncommon in the labor movement. Admitted into evidence were numerous letters from Nevada State Legislators stating that the legislative intent in enacting NRS 288.140(1) was not to prohibit employee organizations from making membership in state and/or national organizations a condition precedent to membership in the local organization; it was intended to preserve the freedom of the employee to join or refrain from joining any employee organization.

FINDINGS OF FACT

1. That no administrators or principals who are members of the NSEA or NEA are permitted membership in the local bargaining unit known as the CCCTA.

2. That the evidence disclosed that the membership and participation of administrators and principals in NSEA and NEA is declining.

3. That no evidence discloses a significant domination of the CCCTA by administrators and principals because of their membership and participation in the NSEA and the NEA.

4. That the CCCTA conducts a dues checkoff for itself, the NSEA and the NEA.

5. That the CCCTA makes membership in its organization conditional upon membership in the NSEA and NEA.

6. That unified membership is common among labor organizations.

7. That the CCCTA represents a majority of the eligible employees within its appropriate negotiating unit.

CONCLUSIONS OF LAW

1. Since the CCCTA does not permit administrators or principals in its membership, there is no violation of NRS 288.170(1).

2. No domination of teachers exists through the affiliation of the CCCTA with the NSEA or NEA and there is no violation of the domination prohibitions of NRS Chapter 288.

3. The CCCTA is the recognized employee organization for its appropriate unit and is supported by the majority of the local government employees within that particular negotiating unit.

4. The provisions of NRS 288.140(1) were intended to preserve the freedom of an employee to join or refrain from joining the employee organization established in his particular negotiating unit.

5. The provisions of NRS 288.140(1) were not intended to prohibit an employee organization from making membership in state and/or national organizations a condition to membership in the local employee organization.

6. The unified membership in state and national organizations is not a violation of NRS 288.270(2)(a).

The Board's previous determination in the decision of June 9, 1972, that compulsory membership in NSEA and NEA was in

violation of NRS 288.270(2)(a), is reversed. The complaint is dismissed in its entirety.

Las Vegas, Nevada, April 23rd 1974.

Dennis Pletzke, Chairman

C. Robert Cox, Vice Chairman

Harriet Trudell, Member