Item No. 130

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

IN THE MATTER OF THE CLARK COUNTY CLASSROOM TEACHERS ASSOCIATION, Complainant, VS. BOARD OF TRUSTEES OF THE CLARK COUNTY SCHOOL DISTRICT, THE CLARK COUNTY SCHOOL DISTRICT, AND CLAUDE G. PERKINS, Respondents.	Case No. A1-045351

DECISION

The Local Government Employee-Management Relations Board held a hearing on the above matter on Friday, March 12, 1982; the hearing was properly noticed and posted pursuant to Nevada's Open Meeting Law.

The written decision is prepared in conformity with NRS 233B.125 which requires that the final Decision contain Findings of Fact and Conclusions of Law separately stated.

Prior to hearing testimony on the Complaint itself, the Board heard argument on Respondent's oral Motion to Dismiss. The Board reserved ruling on the motion. Respondent then moved for a continuance until such time a ruling could be obtained either from the Court or the Office of the Attorney General to ascertain the jurisdication of the Board in such matters as the case before it. The Board denied the Motion and proceeded to hear Complainant's case in chief.

By complaint filed April 27, 1981, the Clark County Classroom Teachers Association (hereinafter CCCTA) seeks a determination that the action of Dr. Claude Perkins, Superintendent of Schools for the Clark County School District (hereinafter District) in revoking the mail privileges of CCCTA during negotiations was an

unfair labor practice and bad faith bargaining.

Respondent denies these allegations in that the actions of Dr. Perkins on behalf of the District were a good faith exercise of its rights under the negotiated agreement between the parties; therefore, the Respondent argues this complaint is erroneously before the Board and should be dismissed as the Local Government Employee-Management Relations Board does not have jurisdiction in this instance in that it is an arbitrable matter.

In January 1981, the District and CCCTA had begun negotiations for a new collective bargaining agreement to succeed the existing agreement.

The mail rights provided CCCTA by the existing agreement were revoked in January 1981 and then restored by the stipulated agreement of the parties dated February 10, 1981.

The specific action which gave rise to the instant complaint is that on April 22, 1981, Dr. Perkins notified the Complainant by letter that he was immediately revoking CCCTA's privilege of using school mail as set forth under Article VII of the negotiated agreement in force at that time.

Article VII states in pertinent part:

> 7.1 The Association shall have the right to use school mail boxes and the interschool mail service for the distribution of responsible material initiated by the Association. Copies of all materials... If the privilege herein is misused by the Association or any of its designated representatives, it may be immediately revoked by the Superintendent...

In his letter of April 22, 1981, Dr. Perkins stated that CCCTA had abused its privilege by distributing a document campaigning against District representatives and in support of CCCTA activity relating to the collective bargaining process.

Article VII further states:

> 7.4 The use of school facilities permitted above shall not include any use to campaign in any manner either directly or indirectly against School District representatives or the Board of School Trustees.

> or any use to campaign on behalf of any activity by the Association or any of its representatives relating to the collective bargaining process.

The Complainant argues that its actions were not a violation of Article VII and Dr. Perkins was motivated by anti-association animus and desired to subvert the negotiation process between the parties; prohibited practices under NRS 288.270(1)(b) and NRS 288.270(1)(e). Therefore, the dispute is correctly before the Board as it is not a grievance.

Upon conclusion of the Complainant's case in chief the Respondent renewed its motion to dismiss claiming that CCCTA had failed as a matter of proof to establish an unfair labor practice.

The Board has exclusive jurisdiction concerning unfair labor practices and resolution of a charge of prohibited practices requiring interpretation of contractual provisions does not deprieve the Board of jurisdiction over such matters. See Nevada Classified School Employees Association, Chapter One, Clark County vs. Clark County School District, Case No. A1-045336, Item No. 105.

However, the Board may not construe or interpret contract violations that would not otherwise constitute prohibited practices. After hearing the testimony and reviewing the evidence presented, the Board finds the burden of proof has not been met for a finding of prohibited practices against the District.

Since it is outside of the Board's jurisdiction to resolve grievances arising under the parties collective bargaining agreement and if in fact, the District's conduct constituted a breach of their negotiated agreement, CCCTA should have submitted the dispute to contractual dispute resolution procedures.

FINDINGS OF FACT

1. That the Complainant, Clark County Classroom Teachers

Association is a local government employee organization.

2. That the Respondent, Clark County School District is a local government employer.

3. That the Respondent, Dr. Claude Perkins, was at the time of the complaint, Superintendent of Schools for the Clark County School District and a supervisory employee.

4. That the Clark County School District and the Clark County Classroom Teachers Association had entered into a collective bargaining agreement covering the period from the beginning of the 1979-80 school year until the beginning of the 1981-82 school year and which had been in full force and effect.

5. That Article VII of the agreement gives CCCTA certain rights with regard to the use of school facilities during the term of the agreement.

6. That Article VII of the agreement gives the District certain rights with regard to revocation of CCCTA's use of school facilities.

7. That in January 1981, the District and CCCTA had begun negotiations for a new collective bargaining agreement to succeed the existing agreement.

8. That in January 1981, the mail rights provided CCCTA by the existing agreement were revoked by the District and restored by stipulated agreement of the parties dated February 10, 1981.

9. That on or about April 22, 1981, the mail rights provided CCCTA by the existing agreement were revoked by the District.

CONCLUSIONS OF LAW

1. That pursuant to the provisions of the Nevada Revised Statutes Chapter 288, the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this compalint. NRS 288.110. NRS 288.280.

2. That the complainant, Clark County Classroom Teachers Association, is a local government employee organization within the terms as defined in NRS 288.040.

3. That the Respondent, Clark COunty School District, is a local government employer within the term as defined in NRS 288.060.

4. That the Respondent, Dr. Claude Perkins, was the Superintendent of Schools for the District and a supervisory employee under NRS 288.075.

5. That the acts of Perkins by and on behalf of the District in revoking CCCTA's rights to use school mail service, the school mail boxes and faculty bulletin boards did not constitute willful domination and interference with the Administration of CCCTA. NRS 288.270(1)(b).

6. That the acts of Perkins by and on behalf of the District in revoking CCCTA's rights to use school mail service, the school mail boxes and faculty bulletin boards did not constitute a willful refusal to bargain collectively in good faith with CCCTA as required in NRS 288.150. NRS 288.270(1)(e).

Motion to dismiss is well taken. It is ORDERED that the complaint be, and the same hereby is, dismissed with prejudice.

Each party shall bear its own costs and attorney fees.

Dated this 29th day of April of 1982.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

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Thomas J. Moore

XC: Board Members

Interested Parties

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