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LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

WHITE PINE ASSOCIATION OF CLASSROOM)
TEACHERS, and WINNIFRED COPE,)
Complainants,)
-vs-)
WHITE PINE SCHOOL DISTRICT; WHITE)
PINE COUNTY BOARD OF SCHOOL)
TRUSTEES; and DEAN C. STUBBS,)
Respondents.)

ITEM NO. 236
CASE NO. A1-045444

CONSENT DECREE

STATEMENT OF THE CASE

On April 11, 1989, the White Pine Association of Classroom Teachers (hereinafter referred to as "the Association") filed a complaint with the Local Government Employee-Management Relations Board (hereinafter referred to as "the Board") alleging unfair labor practices by the White Pine County School District and the White Pine County School District Board of School Trustees (hereinafter collectively referred to as "the District") and Dean C. Stubbs, Principal, Mt. View Elementary School. No hearing was held in this case since, pursuant to a Settlement Agreement, both parties stipulated to the entry of a consent decree.

The underlying facts which led to the filing of this action began on February 8, 1989, when complainant, Winnifred Cope, a third grade teacher at Mt. View Elementary School received a written admonition from Dean C. Stubbs, Principal of the Mt. View Elementary School. The letter admonished Mrs. Cope for unprofessional conduct for having allegedly discussed

1 with and made critical statements to colleagues and members of
2 the community regarding Mr. Stubbs' action of removing a child
3 from Mrs. Cope's class.

4 In response to the allegations contained in the letter
5 of admonition, Mrs. Cope contacted representatives of the
6 Association and on February 9, 1989 two representatives of the
7 Nevada State Education Association met with Mrs. Cope in her
8 classroom at Mt. View Elementary School during her preparation
9 time. The purpose of that meeting was to obtain a copy of the
10 letter of admonition.

11 On February 9, 1989, Mrs. Cope received a letter from
12 Mr. Stubbs informing Mrs. Cope that under the terms of the
13 Master Contract negotiated between the Association and the
14 School District, Association activities, such as meeting with
15 the two association representatives, were not to be conducted
16 during the school day. The Master Contract between the
17 Association and the District does not contain a provision
18 prohibiting Association activities during the school day,
19 providing those activities do not interfere with regular
20 teaching duties and obligations. The District does not have a
21 policy which prohibits Association activities during a
22 teacher's preparation time.

23 On February 13, 1989, Mrs. Cope requested specific
24 information regarding the names of the colleagues and the
25 members of the community with whom Mrs. Cope had discussed the
26 matter referenced in the letter of admonition. In response to
27 the letter sent to the District by Mrs. Cope, a meeting was
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1 held to discuss the letter of admonition. Present at the
2 meeting were two representatives of the Association, Mrs.
3 Cope, Mr. Stubbs, and Dr. Havertape, Superintendent of the
4 District. The outcome of the meeting resulted in the District
5 withdrawing the letter of admonition.

6 On February 13, 1989, Mrs. Cope received a letter from
7 Mr. Stubbs informing Mrs. Cope that in response to her
8 request, the letter of admonition was being withdrawn. The
9 letter went on to state that Mr. Stubbs was "upset" with Mrs.
10 Cope's actions regarding the incident alleged in the letter of
11 admonition. The letter alluded to the fact that Mr. Stubbs
12 was dissatisfied with Mrs. Cope's "attempt to discredit" Mr.
13 Stubbs. The letter further stated that it would be difficult
14 for Mr. Stubbs to work with Mrs. Cope in the future.

15 On March 9, 1989, Mr. Joseph Boteilho, President of the
16 Association, wrote a letter to Mr. Stubbs informally
17 protesting the length of the lunch period at Mt. View
18 Elementary School. The letter contained typographical and
19 grammatical errors. Mr. Stubbs "circled" the errors, made
20 corrections and underlined that portion of the letter which
21 stated that the letter was an "informal protest from the White
22 Pine Teachers Association". On March 13, 1989, Mr. Stubbs
23 posted the "circled" letter on a bulletin board where teachers
24 and the public could view the letter.

25 On March 13, 1989, Mr. Boteilho wrote a second letter to
26 Mr. Stubbs concerning the shortened lunch period. Mr. Stubbs
27 again "circled" the typographical errors in the second letter
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1 and posted the "circled" letter on the same bulletin board as
2 the March 9, 1989 "circled" letter.

3 On April 5, 1989, Mr. Stubbs arranged for an "emergency
4 meeting" of the Association to be conducted at the Mt. View
5 Elementary School. Mr. Stubbs, although not attending the
6 actual meeting, was present in the hall during the meeting in
7 a location that would enable him to view the teachers in his
8 school who did attend. Prior to the "emergency meeting" at
9 the Mt. View Elementary School, Mr. Stubbs telephoned Michael
10 W. Dyer, retained counsel for the Association, and stated that
11 he was acting as an intermediary for certain teachers who
12 wished to inform Mr. Dyer that there were many teachers who
13 were upset with the Association for planning to file the suit
14 and suggested that the Association refrain from filing suit
15 until a meeting could be conducted.

16 On April 6, 1989, the Association held a meeting called
17 by the leadership for purposes of disseminating information to
18 the membership concerning the filing of the lawsuit. The
19 meeting was conducted in a meeting room reserved by the
20 Association on non-school property. A sign was posted at the
21 entrance to the meeting that the meeting was open to members
22 only. Mr. Stubbs, who is not a member of the Association,
23 proceeded past the sign and into the meeting area with a video
24 camera. Mr. Stubbs began to video tape members in the room
25 and members as they entered the door to the room. After
26 repeated requests that non-members leave the meeting, a motion
27 was made to allow non-members to attend the meeting. Mr.
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1 Stubbs and Dr. Wilkens, a local physician, continued to video
2 tape throughout the entire meeting. At the conclusion of the
3 meeting, when asked the purpose of the video tape, Mr. Stubbs
4 announced in the presence of the membership that the tape was
5 being made to make sure "there was a record". Subsequent to
6 the April 6, 1989 Association meeting, Mr. Stubbs showed the
7 video tape to members of the Administration.

8 At the conclusion of the meeting, Mr. Stubbs and Dr.
9 Wilkens confronted Richard Wilson, Associate Executive
10 Director of NSEA, as Mr. Wilson left the building. Dr.
11 Wilkens, standing beside Mr. Stubbs and in the presence of one
12 Association member, announced that "the Association had gone
13 too far this time" and that "the Association would pay for
14 this".

15 Subsequent negotiations between the parties resulted in
16 a Settlement Agreement being entered into. A condition of the
17 Settlement Agreement was that both parties would stipulate to
18 the entry of a consent decree finding that the actions of Mr.
19 Stubbs constituted unfair labor practices on the part of the
20 District if the District had directed Mr. Stubbs to take such
21 actions.

22 FINDINGS OF FACT

23 1. That the White Pine County Association of Classroom
24 Teachers is a local government employee organization.

25 2. That the White Pine County School District is a
26 local government employer.

27 3. That on February 8, 1989, Mr. Dean C. Stubbs did
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1 send a formal written letter of admonition to Winnifred Cope
2 admonishing Mrs. Cope for allegedly unprofessional conduct.

3 4. That on February 9, 1989 Mrs. Cope did receive a
4 letter from Mr. Stubbs informing Mrs. Cope that under the
5 terms of the Master Contract negotiated between the
6 Association and the School District, Association activities
7 were not to be conducted during the school day.

8 5. That the Master Contract between the White Pine
9 County School District and the White Pine County Association
10 of Classroom Teachers does not contain a provision prohibiting
11 Association activities during the school day, providing that
12 such activities do not interfere with regular teaching duties
13 and obligations.

14 6. That on February 13, 1989, Mr. Stubbs sent a letter
15 to Mrs. Cope which contained statement by Mr. Stubbs that Mr.
16 Stubbs was "upset" with Mrs. Cope's actions regarding the
17 incident alleged in the letter of admonition and he was
18 "dissatisfied" with Mrs. Cope's "attempt to discredit him".
19 The letter specifically stated that it would be difficult for
20 Mr. Stubbs to work with Mrs. Cope in the future.

21 7. That Mr. Stubbs circled typographical and
22 grammatical errors in a letter sent to Mr. Stubbs from Mr.
23 Joseph Boteilho, President of the Association, making
24 corrections and underlining that portion of the letter which
25 informed Mr. Stubbs that the letter was an "informal protest
26 from the White Pine Teachers Association" and posted the
27 letter on a bulletin board where teachers and the public could
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1 view the letter.

2 8. That Mr. Stubbs "circled" typographical errors
3 appearing in a second letter sent to Mr. Stubbs from Mr.
4 Boteilho in his capacity as Association President, and posted
5 the "circled" letter on the school bulletin board.

6 9. That Mr. Stubbs did on or about April 5, 1989 assist
7 in calling an "emergency meeting" of the Association to be
8 held at the Mt. View Elementary School for the purpose of
9 attempting to prevent the Association from filing a lawsuit
10 against the then Superintendent of School and certain members
11 of the Board of School Trustees, and that Mr. Stubbs
12 positioned himself at the time of the meeting so that he could
13 view those faculty members who did attend.

14 10. That on April 6, 1989, the Association did hold a
15 meeting called by the leadership for the purpose of
16 disseminating information to the membership concerning a
17 lawsuit being brought against the superintendent and certain
18 board members. That meeting was conducted in a room reserved
19 by the Association on non-school district property. The
20 entrance to the meeting was posted with a sign that clearly
21 stated that the meeting was open to members only. That
22 despite the clear posting that the meeting was open to members
23 of the Association only, Mr. Stubbs, who is not a member of
24 the Association, proceeded to go past the sign and into the
25 meeting area and with the aid of Dr. Wilkens, a local
26 physician, began to video tape the meeting. That Mr. Stubbs
27 stated purpose in making the video was to make a record.

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1 Labor Relations Board v. Great Dane Trailers, 388 U.S. 26, 34;
2 87 S.Ct. 1792, 1798.

3 FINDINGS OF FACT

4 1. That the Complainant, Clark County Classroom Teachers
5 Association ("Association") is the recognized employee
6 organization engaged in the representation of the certificated
7 personnel including teachers employed by the Clark County
8 School District.

9 2. That the Respondent, Clark County School District
10 ("District") is a local government employer.

11 3. That Article 10 of the 1987-89 Collective Bargaining
12 Agreement provides for a Teacher Advisory Council ("TAC").
13 The TAC committee is established to serve as the official
14 representative of faculty in dealing with concerns, other than
15 grievances, at the particular building site.

16 4. That Timothy Sands is employed by the District in
17 the capacity of School Principal at Doris Hancock Elementary
18 School.

19 5. That on October 13, 1988, the TAC committee held a
20 regularly scheduled meeting at Hancock Elementary. Present at
21 the meeting were TAC members, teachers Shawnee Zanca, Linda
22 Ihnen, Bob Zaletel, Sandra Donald, Doug Jacobs, Mike Carrillo,
23 and Tokie Noricks and principal, Timothy Sands.

24 6. That during the course of the meeting, Mr. Sands
25 essentially stated it was unprofessional for teachers to
26 contact the Association for assistance in resolving problems.

27 7. That NRS 391.312(1)(c) provides that:
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1 1. A teacher may be suspended, dismissed or not
2 reemployed and an administrator may be demoted,
3 suspended, dismissed, or not reemployed for the
4 following reasons:

5 c. unprofessional conduct.

6 8. That TAC member, Shawnee Zanca contacted an
7 Association representative following the meeting and reported
8 Mr. Sand's remarks.

9 9. That on November 16, 1988, the Hancock Elementary
10 TAC committee held its next regularly scheduled meeting.
11 Present at the meeting were TAC members, teachers Shawnee
12 Zanca, Linda Ihnen, Sandra Donald, Doug Jacobs, Mike Carrillo,
13 Tokie Noricks and Sherri Knight and principal, Timothy Sands.

14 10. That during the course of the meeting, Mr. Sands
15 stated in an angry manner that he has seen a letter which
16 referred to the events of the previous TAC meeting and which
17 threatened an unfair labor practice. He additionally stated
18 that all the members of the TAC committee would suffer for it.

19 11. That Mr. Sands attempted to determine which member
20 of the TAC committee was responsible for the letter.

21 12. That Doug Jacobs resigned from the TAC committee
22 because of Mr. Sand's confrontation with the TAC committee on
23 November 16, 1988 and because of the threat of an E.M.R.B.
24 hearing on the matter.

25 13. That other teachers who heard Mr. Sand's remarks
26 regarding unprofessional conduct on October 13, 1988 were
27 restrained and coerced from seeking Association assistance.

28 14. That the statement of October 13 and the statement
of November 16, 1988 caused teachers to be threatened for

1 reporting an alleged prohibited practice to the Association.

2 15. That the foreseeable consequences of Mr. Sand's
3 actions were to discourage membership in the Association, to
4 interfere in the administration of the Association and to
5 coerce employees from seeking assistance from the Association.

6 16. That NRS 288.270(1) provides that:

7 1. It is a prohibited practice for a local
8 government employer or its designated representative
9 wilfully to:

10 (a) Interfere, restrain or coerce any employee in
11 the exercise of any right guaranteed under this
12 Chapter.

13 (c) Discriminate in regard to hiring, tenure or
14 any term or condition of employment to encourage or
15 discourage membership in any employee organization.

16 (d) Discharge or otherwise discriminate against
17 any employee because he has signed or filed an
18 affidavit, petition or complaint or give any
19 information or testimony under this Chapter, or
20 because he has formed, joined or chosen to be
21 represented by an employee organization.

22 17. That the conduct of Mr. Sands was in violation of NRS
23 288.270(1) and such conduct is a prohibited practice
24 thereunder.

25 18. That Carolyn Reedom is employed by the District in
26 the capacity of School Principal at Estes McDoniel Elementary
27 School.

28 19. That Debbie Mayday is employed by the District as a
teacher at Estes McDoniel Elementary School.

20 20. That on or about September 25, 1988 and on or about
21 October 5, 1988, Carolyn Reedom met with Debbie Mayday.

22 21. That Dr. Reedom and Ms. Mayday met for the purpose of
23 gaining information about Ms. Mayday's concern for a fairer
24 noon-duty assignment and to provide a more favorable
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1 assignment for her.

2 CONCLUSIONS OF LAW

3 1. The Local Government Employee-Management Relations
4 Board possesses original jurisdiction over the parties and
5 subject matter of this Complaint, as amended, pursuant to the
6 provisions of NRS 288.

7 2. That the Complainant, Clark County Classroom
8 Teachers Association, is a recognized employee organization
9 within the terms defined by NRS 288.040.

10 3. That the Respondent, Clark County School District is
11 a local government employer within the terms defined by NRS
12 288.060.

13 4. That the Association made a prima facie showing
14 supporting its contention that the conduct of Mr. Sands
15 resulted in coercion of employees when they sought assistance
16 from their union, in the interference of employees processing
17 a complaint and in foreseeable effect to discourage membership
18 in the Association.

19 5. That it is a prohibited practice for a local
20 government employer willfully to interfere or coerce an
21 employee in the right of association, to discriminate against
22 an employee for processing a complaint and to discourage
23 employee organization membership under NRS 288.270(1).

24 6. That Mr. Sand's conduct on October 13 and November
25 16, 1988, constituted a prohibited practice within the meaning
26 of NRS 288.270(1)(a), (b) and (d).

27 7. That the District's proffered legitimate explanation
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