

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD

4 NEVADA CLASSIFIED SCHOOL
5 EMPLOYEES ASSOCIATION, AFT/PSRP,
6 LOCAL 6181, AFL-CIO,

7 Complainants,

8 vs.

9 TRUCKEE-CARSON IRRIGATION
10 DISTRICT,

11 Respondent.

12 ITEM NO. 574A

13 CASE NO. A1-045791

14 **ORDER**

15 For Complainant: Michael E. Langton, Esq.

16 For Respondent: Lyman F. McConnell, Esq.

17 On March 5, 2004, the NEVADA CLASSIFIED SCHOOL EMPLOYEE
18 ASSOCIATION, AFT/PSRP, LOCAL 6181, AFL-CIO (hereafter "Association") filed a
19 Prohibited Practices Complaint with the LOCAL GOVERNMENT EMPLOYEE-
20 MANAGEMENT RELATIONS BOARD (hereafter "Board"), against TRUCKEE-CARSON
21 IRRIGATION DISTRICT (hereafter "District").

22 On August 16, 2004, the District filed a Motion to Dismiss. The Association filed their
23 reply on August 23, 2004 and a reply was filed by the District on September 2, 2004.

24 The Board deliberated on said motion on September 21, 2004, noticed in accordance with
25 Nevada's Open Meeting Law. Based upon the Board's deliberations,

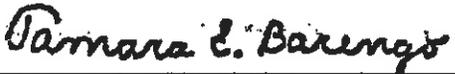
26 IT IS HEREBY ORDERED that Respondent's Motion pending before the Board is
27 denied on the grounds that the failure to timely file a prehearing statement pursuant to NAC
28 288.250 does not require automatic dismissal of the complaint. Here the delay in submission of
the Complainant's prehearing statement was less than two months and did not violate any direct
order of the Board. Moreover, it appears that Complainant's failure to timely submit and serve a
prehearing statement was due to inadvertence and a mistaken belief that the subject matter of the
complaint would be resolved prior to any hearing. Respondent has not demonstrated any

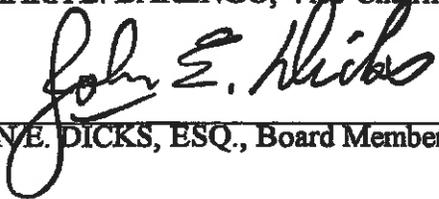
1 prejudice resulting from the delay in submission and service of Complainant's prehearing
2 statement and did not move this Board for an order requiring compliance with NAC 288.250
3 prior to filing a motion to dismiss. Pursuant to NAC 288.040, the Board's rules are to be
4 liberally construed to effectuate the purposes of those rules. See also NAC 288.235 (similarly
5 providing for liberal construction of papers and permitting parties to cure defects in absence of
6 prejudice to substantial rights of a party). Here, the interests of justice would not be served by
7 dismissing Complainant's complaint without a hearing. For all of the foregoing reasons, the
8 Board hereby denies Respondent's Motion to Dismiss.

9 IT IS FURTHER ORDERED that any future failure by Complainant's counsel to abide
10 by this Board's rules will not be tolerated and will likely result in sanctions. See NAC 288.373.

11 DATED this 22nd day of September, 2004.

12 LOCAL GOVERNMENT EMPLOYEE-
13 MANAGEMENT RELATIONS BOARD

14 BY: 
15 TAMARA E. BARENGO, Vice-Chairman

16 BY: 
17 JOHN E. DICKS, ESQ., Board Member
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20 I dissent from the denial of Respondent's Motion to Dismiss. I agree with the majority's
21 opinion that any future failure by Complainant's counsel to abide by this Board's rules will not
22 be tolerated, however, I would be inclined to dismiss future cases based on counsel's violations
23 of the rules.

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25 BY: 
26 JANET TROST, ESQ., Chairman
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