

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
4

5 ANTONIO BALASQUIDE)

6 Complainant,)

7 vs.)

8 LAS VEGAS VALLEY WATER DISTRICT,)

9 Respondents.)

ITEM NO. 708

CASE NO. A1-045957

ORDER

11 For Complainant: Antonio Balasquide and his attorney, M. Lani Esteban-Trinidad, Esq.

12 For Respondents: Las Vegas Valley Water District and their attorney Brian Chally, Esq.

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14 On the 18th day of November, 2009, this matter came on before the State of Nevada,
15 Local Government Employee-Management Relations Board ("Board"), for consideration and
16 decision pursuant to the provisions of the NRS and NAC chapters 288, NRS chapter 233B, and
17 was properly noticed pursuant to Nevada's open meeting laws.

18 The Complaint in this matter was filed on May 6, 2009 by Complainant Antonio
19 Balasquide. The Complaint alleges that Respondent Las Vegas Valley Water District violated
20 NRS 288.270(f) in that it discriminated against Balasquide due to his race, national origin, and
21 because of "personal reasons."

22 Respondent filed a motion to dismiss the Complaint on August 7, 2009. The arguments
23 raised in Respondent's motion assert that because Balasquide's allegations consist solely of
24 claims for discrimination, and do not involve any collective bargaining issues, that this case
25 should instead be heard by the Nevada Equal Rights Commission and should therefore be
26 dismissed. Respondent has cited to two prior decisions from the Board, which Respondent
27 asserts controls this issue. Specifically Respondent refers to our prior decision in Kilgore v. City
28 of Henderson and Henderson Police Dept., Item 550H at 9, n.5 (May 10, 2005), and to Harrison

1 v. City of North Las Vegas, Item No. 558 at 2 (November 14, 2003) to support its claim that the
2 Board should dismiss the Complaint. Respondent also requests dismissal because the Complaint
3 was not verified as required by NAC 288.200(2).

4 Complainant submitted an opposition to the motion, titled as a "Reply," on August 17,
5 2009, asserting that this case is properly before this Board.

6 A Reply to the opposition was submitted by Respondent on August 19, 2009.

7 NRS 288.270(f) states that it is a prohibited practice for a local government employer to
8 discriminate on the basis of "race, color, religion, sex, age, physical or visual handicap, national
9 origin or because of political or personal reasons or affiliations." NRS 288.280 specifically
10 grants the Board authority to hear a prohibited practice Complaint, such as the Complaint
11 brought by Balasquide under NRS 288.270(f). The prior decisions cited by Respondent are not
12 applicable to this case. In Kilgore, the Board noted, in a footnote, that the Board's jurisdiction is
13 limited to NRS 288, and that the Board cannot consider civil rights claims that are outside the
14 scope of NRS 288. In Harrison, the Board reasoned that it lacks jurisdiction over federal claims
15 of discrimination arising under Title VII of the federal Civil Rights Act. However, as noted
16 above, the Board does have jurisdiction over discrimination claims arising under Chapter 288.
17 Because Balasquide's Complaint alleges a violation of NRS 288.270(f), it is within the
18 jurisdiction of this Board, and dismissal on this basis is not proper.

19 On the second point raised in the motion to dismiss, Respondent is correct that NAC
20 288.200(2) does require that a Complaint be verified. However, NAC 288.235(2) states that
21 pleadings will be liberally construed by the Board, and that the Board may disregard any defect
22 that does not affect a parties' substantial rights. Accordingly, the Board declines to dismiss the
23 Complaint on the basis that it is not verified.

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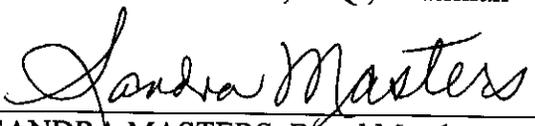
1 Based upon the foregoing, and good cause appearing therefore, IT IS HEREBY
2 ORDERED that Respondent's Motion to Dismiss is Denied.

3 IT IS FURTHER ORDERED that the parties shall submit their pre-hearing statements no
4 later than December 11, 2009.

5 DATED this 19th day of November, 2009.

6 LOCAL GOVERNMENT EMPLOYEE-
7 MANAGEMENT RELATIONS BOARD

8 BY: 
9 SEATON J. CUKRAN, ESQ., Chairman

10 BY: 
11 SANDRA MASTERS, Board Member
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5 ANTONIO BALASQUIDE

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9 Respondents.

CASE NO. A1-045957

NOTICE OF ENTRY OF ORDER

10 TO: Antonio Balasquide and his attorney, M. Lani Esteban-Trinidad, Esq.

11 TO: Las Vegas Valley Water District and their attorney Brian Chally, Esq.

12
13 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
14 November 19, 2009.

15 A copy of said order is attached hereto.

16 DATED this 20th day of November, 2009.

17 LOCAL GOVERNMENT EMPLOYEE-
18 MANAGEMENT RELATIONS BOARD

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20 BY


JOYCE HOLTZ, Board Secretary

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 20th day of November, 2009, I served a copy of the foregoing ORDER by mailing a copy thereof, postage prepaid to:

M. Lani Esteban-Trinidad
4315 N. Rancho Dr. #110
Las Vegas, NV 89130

Brian Chally, Deputy Counsel
Las Vegas Valley Water District
1001 South Valley View Blvd.
Las Vegas, NV 89153


JOYCE HOLTZ, Board Secretary

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