

1 STATE OF NEVADA  
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
3 RELATIONS BOARD  
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5 TAMI BYBEE and ALEATHA GINGELL, )

6 Complainants, )

7 vs. )

8 THE WHITE PINE COUNTY SCHOOL )  
9 DISTRICT; NEVADA STATE EDUCATION )  
10 ASSOCIATION and THE WHITE PINE )  
11 ASSOCIATION OF CLASSROOM )  
12 TEACHERS, )

13 Respondents.

ITEM NO.: 724A

CASE NO. A1-045972

**ORDER**

14 TO: Tami Bybee and Aleatha Gingell and your attorneys Gary D. Fairman, Esq..

15 TO: Humboldt County and your attorneys Humboldt County District Attorney.

16 On the 24th day of August, 2010, this matter came on before the State of Nevada, Local  
17 Government Employee-Management Relations Board ("Board"), for consideration and decision  
18 pursuant to the provisions of NRS and NAC chapters 288, NRS chapter 233B, and was properly  
19 noticed pursuant to Nevada's open meeting laws.

20 On August 2, 2010 Respondents White Pine Association of Classroom Teachers and  
21 Nevada State Education Association filed a motion for partial summary judgment. The motion  
22 was opposed by Complainants.

23 The motion asserts that NSEA should be dismissed because it is not the recognized  
24 bargaining agent and therefore cannot owe a duty of fair representation to Complainants. In  
25 opposition, Complainants assert that NSEA's acts and conduct placed it in the role of the  
26 bargaining agent.  
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1 The motion also asserts that the claim of Complainant Aleatha Gingell is moot, however  
2 Complainant asserts that she was also denied a proper place on the School District's recall list  
3 which gives rise to a ripe claim.  
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5 The Board may dismiss a matter for any of the reasons stated in NAC 288.375. The  
6 Board has reviewed the pleadings and the exhibits attached to the pleadings, and we believe there  
7 exists a sufficient question of fact to defeat the motion. Having fully considered the law and  
8 being fully advised in the premises,

9 IT IS HEREBY ORDERED that Respondents White Pine Association of Classroom  
10 Teachers and Nevada State Education Association's motion for partial summary judgment is  
11 Denied.

12 DATED this 26<sup>th</sup> day of August, 2010.  
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14 LOCAL GOVERNMENT EMPLOYEE-  
15 MANAGEMENT RELATIONS BOARD

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17 BY:   
18 SEATON J. CURRAN, ESQ., Chairman  
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13 Respondents.

CASE NO. A1-045972

**NOTICE OF ENTRY OF ORDER**

14 To: Tami Bybee and Aleatha Gingell and your attorneys Gary D. Fairman, Esq.

15 To: The White Pine County School District and your attorneys Erickson, Thorpe &  
16 Swainston, Ltd.

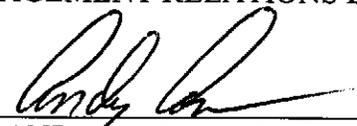
17 To: Nevada State Education Association and The White Pine Association of  
18 Classroom Teachers and your attorneys Dyer, Lawrence, Penrose, Flaherty,  
19 Donaldson & Prunty

20 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on  
21 September 1, 2010.

22 A copy of said order is attached hereto.

23 DATED this 1st day of September, 2010.

24 LOCAL GOVERNMENT EMPLOYEE-  
25 MANAGEMENT RELATIONS BOARD

26 BY 

27 ANDY ANDERSON, Commissioner  
28

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management  
3 Relations Board, and that on the 1st day of September, 2010, I served a copy of the foregoing  
4 ORDER by mailing a copy thereof, postage prepaid to:

5 ***Gary D. Fairman, Esq.***  
6 ***Law Offices of Gary D. Fairman***  
7 ***482 Fifth St., P.O. Box 151105***  
8 ***Ely, NV 89315***  
9 ***Attorney for Complainants***

10 ***Rebecca Bruch, Esq.***  
11 ***Erickson, Thorpe & Swainston, Ltd.***  
12 ***99 West Arroyo St.***  
13 ***Reno, NV 89521***  
14 ***Attorney for Respondent***  
15 ***White Pine County School District***

16 ***Francis C. Flaherty, Esq.***  
17 ***Todd E. Reese, Esq.***  
18 ***Dyer Lawrence Penrose Donaldson & Prunty***  
19 ***2805 Mountain St.***  
20 ***Carson City, NV 89703***  
21 ***Attorneys for Respondents***  
22 ***Nevada Education Association and White***  
23 ***Pine Association of Classroom Teachers***

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ANDY ANDERSON, Commissioner