

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

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.: 724C

CASE NO. A1-045972

ORDER

12 TO: Tami Bybee and Aleatha Gingell and their attorney Gary D. Fairman, Esq..

13 TO: White Pine County School District and their attorney Rebecca Bruch, Esq.

14 Nevada State Education Association and The White Pine Association of
15 Classroom Teacher and their attorney Francis C. Flaherty, Esq.

16 This matter came on before the State of Nevada, Local Government Employee-
17 Management Relations Board ("Board"), on March 11, 2011 for consideration and decision
18 pursuant to the provisions of the Local Government Employee-Management Relations Act ("the
19 Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's
20 open meeting laws.

21 As part of our decision in this case, we directed Complainants, as prevailing parties, to
22 submit a memorandum of fees and costs. Complainants filed their memorandum on February 16,
23 2011. On March 2, 2011 Respondent White Pine County School District filed an opposition to
24 the memorandum of fees on costs.

25 The Board is expressly authorized to award a reasonable amount of costs, including
26 attorneys' fees, to a prevailing party. NRS 288.110(6). It is proper for the Board to enter an
27 award for fees and costs at this stage, even though a petition for judicial review has been filed.

28 See Kantor v. Kantor, 116 Nev. 886, 895, 8 P.3d 825, 830 (2000).

1 The Board previously found that an award of costs, including attorney's fees, is
2 appropriate. In considering the memorandum and the opposition, the Board has considered the
3 factors listed in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P.2d 31 (1969). The
4 Board finds that the rate of \$175.00 per hour is reasonable under these factors. Complainant's
5 memorandum claims total costs in the amount of \$14,072.09. Of these costs, the Board finds that
6 the claimed cost for an EMRB filing fee is unreasonable, as the EMRB does not charge a filing
7 fee. Additionally, the Board notes that Complainants were not prevailing parties on their claims
8 against the White Pine Association of Classroom Teachers and the Nevada State Education
9 Association (collectively "Associations"). The costs incurred on Complainants' exhibit 1
10 indicate costs that were incurred to address a motion that was filed by the Associations, and
11 which the School District did not join. It is not reasonable to award these costs against the School
12 District. Exhibit 1 indicates that \$2,001.34 were incurred (\$1,000.67 per Complainant) in
13 responding to the Associations' motion. Therefore we will reduce Complainant's overall costs by
14 \$100.00 for the claimed EMRB filing fee and additionally by \$2,001.34 for the costs incurred on
15 the Associations' motion. The remainder of Complainants' claimed costs are reasonable, and
16 were incurred on matters in which the School District was directly involved.

17 Therefore the Board concludes that Complainants should be awarded a total of
18 \$11,970.75 for costs incurred in this case.

19 Based upon the foregoing, it is hereby ordered that Complainants Tami Bybee and

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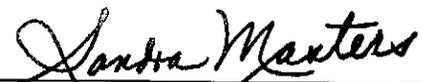
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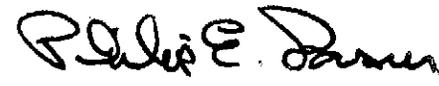
1 Aleathea Gingell are jointly awarded a total of \$11,970.75 for costs to be paid by Respondent
2 White Pine County School District. This award is made pursuant to NRS 288.110(6).

3 DATED this 21st day of March, 2011.

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5 LOCAL GOVERNMENT EMPLOYEE-
6 MANAGEMENT RELATIONS BOARD

7 BY: 
8 SEATON J. CURRAN, ESQ., Chairman

9
10 BY: 
11 SANDRA MASTERS, Vice-Chairman

12 BY: 
13 PHILIP E. LARSON, Board Member

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13 Respondents.

CASE NO. A1-045972

NOTICE OF ENTRY OF ORDER

14 TO: Tami Bybee and Aleatha Gingell and their attorney Gary D. Fairman, Esq..

15 TO: White Pine County School District and their attorney Rebecca Bruch, Esq.

16 Nevada State Education Association and The White Pine Association of
17 Classroom Teacher and their attorney Francis C. Flaherty, Esq.

18 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
19 March 21, 2011.

20 A copy of said order is attached hereto.

21 DATED this 21st day of March, 2011.

22 LOCAL GOVERNMENT EMPLOYEE-
23 MANAGEMENT RELATIONS BOARD

24 BY


JOYCE A. HOLTZ, Executive Assistant

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 21st day of March, 2011, 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 Rebecca Bruch, Esq.
10 Erickson, Thorpe & Swainston, Ltd.
11 99 West Arroyo St.
12 Reno, NV 89521

13 Francis C. Flaherty, Esq.
14 Todd E. Reese, Esq.
15 Dyer Lawrence Penrose Donaldson & Prunty
16 2805 Mountain St.
17 Carson City, NV 89703

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JOYCE A. HOLTZ, Executive Assistant