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STATE OF NEVADA  
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STATE OF NEVADA  
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 ELKO COUNTY EMPLOYEES</p> <p>6 ASSOCIATION, NEVADA CLASSIFIED</p> <p>7 SCHOOL EMPLOYEES AND PUBLIC</p> <p>8 WORKERS ASSOCIATION LOCAL 6181,</p> <p>9</p> <p>10</p> <p>11</p>	}	<p>CASE NO. A1-046068</p> <p>ORDER</p> <p><u>ITEM NO. 807</u></p>
<p>Complainants,</p> <p>vs.</p> <p>ELKO COUNTY,</p> <p>Respondent.</p>	}	

On the 18th day of August, 2015, this matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act") NRS Chapter 288. The Board held an administrative hearing on this matter on May 5-6, 2015, in Elko, Nevada. Pursuant to the request of the parties, post-hearing briefs were submitted to the Board in lieu of oral closing arguments.

The complaint in this matter concerns an allegation of discrimination under NRS 288.270(1)(f) surrounding two former employees of Elko County's Ambulance Service and the County's exclusion of these employees from overtime opportunities.

Prior to 2007 the Elko County Ambulance Service was a volunteer operation. In 2007 the County began to transition the service to a more advanced life support operation. In order to accommodate this move, Elko County began hiring full-time employees for the Ambulance Service with the paramedic certifications that are necessary to operate an advanced life support service. Some of the first employees hired by the County in this transition were Marcey Logsdon and Richelle Rader. Employees in the Ambulance Service are represented by the Elko County Employees Association ("Association").

1 In order to provide the necessary round-the-clock coverage for the Ambulance Service,  
2 the County utilizes both scheduled overtime and extra overtime. Scheduled overtime is time that  
3 an employee was regularly scheduled to work. The Board heard testimony that scheduled  
4 overtime typically consisted of two 24-hour shifts, for a total workweek of 48 hours. A 48-hour  
5 workweek such as this included 8 hours of scheduled overtime per week. Apart from scheduled  
6 overtime, the County also offered extra overtime. Extra overtime was an irregular amount  
7 additional time that was needed to cover special events, such as rodeos, or to respond to  
8 emergency incidents, such as large automobile accidents. Overtime is significant because of the  
9 increased wage rate that applies to overtime work and the increased compensation to employees  
10 who work overtime. The Association claims that Ms. Logsden and Ms. Rader were the victims  
11 of discrimination based upon personal reasons and based upon sex when the County denied  
12 them the opportunity to work scheduled overtime and denied them the ability to take advantage  
13 of the extra overtime opportunities that were made available to their co-workers.

14 Marcey Logsden was, and is, a registered nurse with an EMS endorsement. She was  
15 hired by the County on August 7, 2007 as an EMT paramedic-ALS-RN-EMS. Because of Ms.  
16 Logsden's advanced qualifications she was hired at the top of the salary range for this position,  
17 which was Step 3 - \$21.21 per hour at the time. By the time she left employment with the  
18 County in September of 2012, Ms. Logsden's base wage rate had increased to \$26.01 per hour.  
19 According to Ms. Logsden's testimony, during the first two years of her employment with the  
20 County she routinely worked shifts that included scheduled overtime, the two 24-hour shifts per  
21 week mentioned above. Ms. Logsden testified that this occurred while Bill Webb was the  
22 Director of the Ambulance Service. However, Director Webb left the position of Director of the  
23 Ambulance Service sometime in 2010 and was replaced by Jeff Scierine. From that point on  
24 Ms. Logsden was taken off of scheduled overtime shifts and worked a 40-hour per week shift  
25 for the remainder of her time with the County. This shift did not include any scheduled  
26 overtime.

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1 Richelle Rader was hired by the County on August 2, 2007. She was hired as an EMT-  
2 intermediate with a base wage rate of \$14.70 per hour. Shortly after being hired, Ms. Rader  
3 attended an extended paramedic school in Texas at the County's expense and was subsequently  
4 certified as a paramedic. With her advanced qualifications the County raised Ms. Rader's wage  
5 rate. Ms. Rader testified that this increase was approximately ten dollars per hour more, but  
6 precise figures were not supplied to the Board. At the time she left employment with the County  
7 in September of 2012, Ms. Rader's base wage rate was \$24.52 per hour. Similar to Ms.  
8 Logsdon, Ms. Rader was moved from a 48 hour per week work schedule to a 40 hour per week  
9 schedule after Director Webb left sometime in 2010, although Ms. Rader testified that she went  
10 back and forth between a 40 hour workweek and a 48 hour workweek for short stint after  
11 Director Webb left. Notwithstanding this temporary reversion to scheduled overtime in 2010,  
12 by 2011 Ms. Rader has been permanently excluded from any scheduled overtime shifts.

13 Ms. Logsdon and Ms. Rader were the only ambulance staff employees who worked 40-  
14 hour workweeks. The County's other EMT's and paramedics remained on the 48-hour  
15 workweeks. This fact did not go unnoticed by Ms. Logsdon and Ms. Rader. In addition to the  
16 lack of any scheduled overtime Ms. Logsdon and Ms. Rader were effectively excluded from  
17 extra overtime opportunities as well. While the County did not absolutely forbid Ms. Logsdon  
18 and Ms. Rader from working extra overtime, it did dictate that Ms. Logsdon and Ms. Rader  
19 were, quite literally in this case, the last in line for extra overtime opportunities. Ms. Rader  
20 testified that for a time she worked as scheduling director and she kept a card box with each  
21 employee's contact information on a card. When extra overtime was available she worked  
22 through that card box from the front to the back contacting the employees to offer the overtime  
23 to them. Ms. Rader testified that she and Ms. Logsdon's information was kept at the back of that  
24 card box, making them the last employees to whom extra overtime would be offered.<sup>1</sup> This  
25 was no accident, but came by direction of the current Director of Ambulance Services  
26 Christopher Sloman, who was hired in May of 2010 to replace Jeff Scierine.

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<sup>1</sup> The County later moved to an electronic notification system for extra overtime opportunities.

1 The evidence before the Board demonstrated the glaring disparity in overtime  
2 distribution. Joint exhibit 19 showed the overtime allocation for 2011. In 2011 each ambulance  
3 staff employee recorded 416 hours of scheduled overtime, except for Ms. Logsden and Ms.  
4 Rader, who each recorded 0 hours of scheduled overtime. During that same year extra overtime  
5 hours varied greatly among the other employees, but each employee recorded at least 116 hours  
6 or more of extra overtime. Ms. Rader was able to work only 95 hours of extra overtime in  
7 2011, and a mere 9 hours of extra overtime trickled down to Ms. Logsden for the year. In  
8 contrast, the employee with the highest overtime total for that year worked 1,445 total hours of  
9 overtime. The inability to work overtime along with their co-workers and the lost economic  
10 opportunity for overtime work forced both Ms. Logsden and Ms. Rader to seek secondary  
11 employment outside the County.

12 Joint Exhibit 21 showed that for the first half 2012 the same trend continued. Ms.  
13 Logsden and Rader each recorded 0 hours of scheduled overtime. During that time Ms. Rader  
14 was able to obtain 27 hours of extra overtime and Ms. Logsden only 4.8 hours. In contrast, the  
15 employee with the next lowest overtime totals had recorded 298 hours of total overtime during  
16 that same time period.

17 The County does not dispute this overtime disparity, but claimed that it was an attempt  
18 to minimize labor costs. The evidence at the hearing did establish that Ms. Logsden and Ms.  
19 Rader's base wage rate was significantly higher than the base wage rate of the other ambulance  
20 staff employees. Joint exhibit 20 detailed the disparity in wage rates. In July of 2012, Ms.  
21 Logsden's base wage rate was \$26.01 per hour and her overtime rate was \$39.02 per hour. Ms.  
22 Rader's base wage rate was \$24.52 per hour and her overtime rate was \$37.78 per hour. In  
23 contrast, the base wage rate of the other ambulance staff employees ranged from \$12.85 per  
24 hour to \$18.75 per hour and the overtime wage rate ranged from a low of \$19.28 per hour to a  
25 high of \$28.13 per hour. The County's explanation was that allocating overtime to the  
26 employees with the lower wage rate was simply an attempt to save money. The Board heard  
27 from the County's Assistant Manager and Chief Financial Officer, Mr. Cash Minor, that the  
28 Ambulance Service was established as an enterprise fund entity, meaning that it was anticipated

1 that the Ambulance Service would be able to pay for itself. Mr. Minor testified that not only  
2 was the Ambulance Service not able to pay for itself, but that it was “hemorrhaging” money at  
3 the time. In addition to Mr. Minor’s testimony, the County introduced documentary evidence  
4 showing the financial condition of the Ambulance Service at the time and the rate at which the  
5 service was losing money. The County contends that it was only these significant financial  
6 concerns that led to its decision to try to control costs by excluding Ms. Logsden and Ms. Rader  
7 from overtime work and leaving overtime to the employees with lower wage rates.

8 Not surprisingly this disparity in wage rates and overtime opportunities led to  
9 frustrations and conflict among the ambulance staff employees and between the staff employees  
10 and Director Sloman. Ms. Rader testified about the work environment at the Ambulance  
11 Service. She testified that she was frequently the target of comments by her co-workers to the  
12 effect that she should be fired because she was paid a higher wage rate. Both Ms. Logsden and  
13 Ms. Rader testified to their own frustrations at being excluded from overtime opportunities. Ms.  
14 Rader even attempted to engage the County in direct dealing to negotiate for a lower wage rate  
15 in order for her to be able to work overtime alongside her co-workers. The County declined to  
16 negotiate directly with Ms. Rader. Both Ms. Logsden and Ms. Rader complained repeatedly to  
17 Director Sloman about their exclusion from overtime opportunities, and Director Sloman  
18 admitted to becoming frustrated with the complaints about the overtime distribution. Director  
19 Sloman met these complaints by informing Ms. Rader and Ms. Logsden that the County was  
20 attempting to save on costs.

21 Those mutual frustrations continued to grow. The Board heard evidence of one occasion  
22 in April of 2012 where Director Sloman disciplined Ms. Rader with a verbal reprimand for  
23 working overtime. Ms. Rader claimed that the extra time was necessary to complete a call that  
24 had begun during her regular shift. In response to that discipline, Ms. Rader unsuccessfully  
25 appealed that discipline and in doing so complained that the County’s overtime system was  
26 discriminatory. This accusation brought a brusque rejoinder from Director Sloman. In February  
27 2012 Ms. Logsden was given an unsatisfactory performance evaluation that she asserted was  
28 based upon the constant frustrations and her constant objections to the overtime allocation

1 process. In September of 2012 both Ms. Logsden and Ms. Rader left the County. Ms. Rader  
2 testified that she resigned because she felt like she had a target on her back and that Director  
3 Sloman was looking for reasons to discipline her. Ms. Logsden also testified that she felt as  
4 though she had a target on her back and that she was under the impression that Director Sloman  
5 was looking to force her out. Her resignation email of September 4, 2012 cited hostile  
6 treatment, an unprofessional working environment and discrimination against her as the reasons  
7 for her resignation.

8 The Association filed this complaint on July 11, 2012, before either Ms. Logsden or Ms.  
9 Rader had resigned. The complaint contends that Ms. Logsden and Ms. Rader were the victims  
10 of unlawful discrimination for personal reasons in violation of NRS 288.270(1)(f). The  
11 Association claims discrimination based upon the fact that the County allowed other employees  
12 of the Ambulance Service to work extensive amounts of overtime while denying Ms. Logsden  
13 and Ms. Rader the opportunity to work and earn overtime compensation. The Association also  
14 claimed that Ms. Logsden and Ms. Rader were the victims of sex discrimination, and the  
15 question of sex discrimination was properly placed at issue before the Board.

16 The County does not dispute the basic facts alleged by the Association, and  
17 acknowledges that it excluded Ms. Logsden and Ms. Rader from overtime assignments, while  
18 permitting and even requiring other employees of the ambulance service to work significant  
19 amounts of overtime. The County contends that its sole reason for doing so was the higher  
20 wage rate earned by Ms. Logsden and Ms. Rader, and argues that discriminating against Ms.  
21 Logsden and Ms. Rader on the basis of their wage rate is not unlawful under NRS  
22 288.270(1)(f). The County argues that the Ambulance Service was losing money and the  
23 County's overtime practice that favored employees with a lower wage rate was an attempt to  
24 minimize the costs of the ambulance service rather an act of unlawful discrimination.

25 Not every injustice in the workplace equates with a statutory prohibited labor practice  
26 under NRS 288.270. The Act envisions that employee organizations and the collective  
27 bargaining process are the primary means available to redress matters of compensation,  
28 including overtime allocation, while this Board's authority is limited to statutory prohibited

1 labor practice matters. In matters of discrimination, a statutory prohibited labor practice occurs  
2 only if the impetus for an employer's adverse actions against an employee is a class, status or  
3 conduct that is identified as protected under the Act.

4 The Association contends that this denial of overtime opportunities shows unlawful  
5 discrimination on the basis of personal reasons. The County argues that its actions were not  
6 based upon personal reasons, but were based upon financial concerns, which it argues does not  
7 amount to a "personal reason" under the Act. We agree with the County.

8 NRS 288.270(1)(f) states that it is a prohibited labor practice for a local government  
9 employer to discriminate against a local government employee "...because of political or  
10 personal reasons or affiliations." In applying this section, this Board has long accepted the  
11 meaning of the term "personal reasons" to include "non-merit-or-fitness" factors, and would  
12 include the dislike of or bias against a person which is based on an individual's characteristics,  
13 beliefs, affiliations, or activities that do not affect the individual's merit or fitness for any  
14 particular job." Kilgore v. City of Henderson, Item No. 550H, Case No. A1-045763 (March 30,  
15 2005). In order to state a *prima facie* case of discrimination under this portion of NRS  
16 288.270(1)(f), a claimant must present credible evidence that personal reasons were a  
17 motivating factor in the employers actions. *Id.*; Bisch v. Las Vegas Metro Police Dep't, 129  
18 Nev. \_\_\_, 302 P.3d 1108, 1116 (2013) (adopting the modified Wright Line test to claims of  
19 discrimination based upon political or personal reasons).

20 In this case, we find that the Association has not stated a *prima facie* case of  
21 discrimination because "personal reasons" under NRS 288.270(1)(f) does not include an  
22 employee's higher base wage rate. A contrary reading of "personal reasons" that would include  
23 an employee's wage rate is not compatible with the Act as a whole.

24 As we recognized in Kilgore, the personal reasons anti-discrimination clause is intended  
25 to protect an employee from adverse actions that are motivated by concerns that are unrelated to  
26 the employee's merit or fitness for a job, such as beliefs or affiliations. The wage rate that an  
27 employer pays to the employee does not correspond to any of the categories we identified in  
28 Kilgore. Nor is the wage rate entirely unrelated to the job or entirely personal to the employee.

1 An employee's rate of pay is of course a concern to the individual employee, but it is also a  
2 matter of concern to a local government employer. Employee wage rates do impact the finances  
3 of the local government employer, and we cannot say that wage rate is entirely personal to the  
4 employee. NRS 288.150(5) recognizes a general management right for a local government  
5 employer to manage its operation in what it deems to be the most efficient manner. To construe  
6 "personal reasons" so as to include the wage rate paid to an employee by the local government  
7 employer would tend to undermine this general management right. The main thrust of the  
8 County's argument is consistent with NRS 288.150(5) and relies upon the notion that the  
9 County's actions were motivated solely by a desire to control the costs of the Ambulance  
10 Service, rather than any other reason.

11 Moreover, overtime allocation is a mandatory subject of bargaining under NRS  
12 288.150(2)(a). Truckee Meadows Firefighters Local 2487 v. Truckee Meadows Fire Protection  
13 District, Item No. 448A, Case No. A1-045650 (July 23, 1999). If this Board were to accept the  
14 term "personal reasons" to include an employee's wage rate in this case, we would in effect be  
15 finding that overtime allocation must be more or less equally allocated among employees  
16 regardless of pay rates. A decision from this Board mandating a specific overtime allocation  
17 practice based upon an employee's rate of pay is inherently incompatible with the overarching  
18 purpose of the Act to promote full and fair negotiations on such mandatory subjects of  
19 bargaining between an employer and a bargaining agent. See NLRB v. C&C Plywood Corp.,  
20 385 U.S. 421 (1967). Such a decision would tend to remove overtime allocation from the  
21 bargaining process of NRS 288.150, and place overtime allocation practices under the oversight  
22 of this Board through the anti-discrimination provisions of NRS 288.270. This undermines the  
23 collective bargaining process as a whole. The Act does not leave employees without any  
24 recourse in the face of unfair overtime allocation practices, but that recourse is prospective and  
25 allows for overtime allocation practices to be established and adjusted by agreement between an

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1 employer and the employees' chosen representative in the collective bargaining process rather  
2 than redressed through a prohibited labor practice proceeding before the Board.<sup>2</sup>

3 For these reasons we do not accept the Association's position that "personal reasons"  
4 under NRS 288.270(1)(f) includes an employee's wage rate paid by a local government  
5 employer. If overtime allocation is unfair, as it was in this case, but is based solely on financial  
6 considerations affecting the employer such as an employee's wage rate, then the employer does  
7 not commit an act of discrimination based upon personal reasons under NRS 288.270(1)(f) due  
8 to its overtime allocation practice. As the overtime allocation based upon wage rate in this case  
9 does not fall within the meaning of a "personal reason" under NRS 288.270(1)(f), the  
10 Association fails to demonstrate that protected personal reasons were a motivating factor in the  
11 County's action against Ms. Logsden and Ms. Rader.

12 The foregoing analysis is based strictly upon the view that financial matters affecting the  
13 County (personnel costs) are the sole basis for claiming personal reasons discrimination. The  
14 Association did not show that any other "personal reason" was a motivating factor for excluding  
15 Ms. Logsden and Ms. Rader from overtime allocation. The Board did hear some evidence of  
16 personality conflicts between Ms. Rader, Ms. Logsden and management, particularly with  
17 Director Sloman. But that evidence suggested that those personality disputes arose towards the  
18 end of Ms. Logsden's and Ms. Rader's employment and after Ms. Logsden and Rader had  
19 already been excluded from overtime. The evidence suggests that these conflicts grew out of the  
20 overtime exclusion rather than demonstrating that they were a motivating factor behind the  
21 overtime exclusion. Bisch, 302 P.3d at 1116. Even if we were to accept a personal dislike  
22 between management and Ms. Logsden and Ms. Rader as a motivating factor, we would find  
23 that the County met its burden of proof to show that it would have taken the same actions  
24 against Ms. Logsden and Ms. Rader even in the absence of personal dislike, as the County's  
25 motivation was financial and the overtime practice preceded the personality conflicts.

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26 <sup>2</sup> The Board heard some evidence suggesting that the County had changed its overtime policy in  
27 2010 when Ms. Logsden and Ms. Rader were removed from the scheduled overtime shifts and  
28 that the County changed its overtime policy again 2012. These changes were not at issue before  
the Board in this case. We note that our analysis and decision in this matter should not be  
construed as permitting an employer to make unilateral changes to existing overtime policy.

1 Finally, we do not see evidence that would support a finding that the County  
2 discriminated against Ms. Logsden and Ms. Rader on the basis of sex. Sex discrimination  
3 claims under NRS 288.270(1)(f) are analyzed under the burden-shifting approach stated in City  
4 of North Las Vegas v. EMRB, 127 Nev. \_\_\_, 261 P.3d 1071 (Nev. 2011). In this case, the  
5 evidence does show that the Association established a *prima facie* case of sex discrimination.  
6 The undisputed evidence showed that Ms. Logsden and Ms. Rader were women who were  
7 qualified for their jobs, and who suffered an adverse action when they were denied overtime  
8 while similarly situated male employees were allowed significant amounts of overtime.  
9 However the County articulated a legitimate non-discriminatory reason for its actions based  
10 upon its attempt to control the costs of the Ambulance Service by preferring to schedule lower  
11 wage employees for overtime shifts. The Association does not show that this reason was mere  
12 pretext for unlawful sex discrimination. Indeed we find that this desire to control costs was the  
13 true reason for the County's actions. Cash Minor testified that cost was the exclusive reason for  
14 limiting Ms. Logsden's and Ms. Rader's overtime opportunities and the Board accepts this  
15 testimony as credible. Because this is a legitimate non-discriminatory reason, unrebutted by the  
16 Association, we find that the County did not discriminate against Ms. Logsden and Ms. Rader  
17 on the basis of sex.

18 Based upon the foregoing, the Board makes the following findings of fact and  
19 conclusions of law.

#### 20 **FINDINGS OF FACT**

21 1. From August 7, 2007 to September 4, 2012 Marcey Logsden was employed by  
22 Elko County as an EMT Paramedic-ALS-RN-EMS.

23 2. From August 2, 2007 to September 4, 2012 Richelle Rader was employer by  
24 Elko County as an EMT-Intermediate and then as a paramedic.

25 3. At all times relevant to this matter, Ms. Logsden and Ms. Rader's base wage  
26 rates were significantly higher than the wage rate of other paramedics and EMTs in the Elko  
27 County Ambulance Service.

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1           4.     After Bill Webb left the position of Director of Ambulance Services sometime in  
2 2010, Marcey Logsden was removed from scheduled overtime and placed on a 40-hour  
3 workweek.

4           5.     After 2010 Richelle Rader was excluded from scheduled overtime and placed on  
5 a 40-hour workweek.

6           6.     All other ambulance staff employees (EMTs and paramedics) were on scheduled  
7 overtime shifts of 48 hours per workweek; only Ms. Logsden and Ms. Rader were not on  
8 scheduled overtime shifts.

9           7.     No later than 2010, the County limited Ms. Logsden and Ms. Rader's  
10 opportunities to work extra overtime shifts by offering extra overtime to all other ambulance  
11 staff before offering extra overtime to Ms. Logsden and Ms. Rader.

12          8.     Ms. Logsden and Ms. Rader each resigned from County employment effective  
13 September 4, 2012.

14          9.     The Ambulance Service in Elko County is an enterprise fund operation.

15          10.    From 2009 to 2012 the Ambulance Service operated at a significant deficit.

16          11.    The County's decision to exclude Ms. Logsden and Ms. Rader from overtime  
17 opportunities was based on a desire to limit costs.

18          12.    The personality conflicts that arose between Ms. Logsden and Ms. Rader and  
19 other County personnel developed after the County had already excluded Ms. Logsden and Ms.  
20 Rader from participating in overtime allocation.

21          13.    The County would have excluded Ms. Logsden and Ms. Rader from participating  
22 in overtime opportunities even absent any personal dislike or conflict between Ms. Logsden and  
23 Ms. Rader and other County personnel.

24          14.    Ms. Logsden and Ms. Rader are female.

25          15.    Ms. Logsden and Ms. Rader were each qualified for their respective jobs with the  
26 County.

27          16.    Ms. Logsden and Ms. Rader were subject to an adverse employment action when  
28 they were excluded from overtime opportunities.

1 17. Similarly situated male ambulance staff employees were not excluded from  
2 overtime opportunities.

3 18. The County's excluded Ms. Rader and Ms. Logsden from overtime opportunity  
4 based upon the County's financial concerns.

5 19. The County did not discriminate against Ms. Logsden and Ms. Rader due to their  
6 sex.

7 20. If any of the foregoing findings is more appropriately construed a conclusion of  
8 law, it may be so construed.

### 9 CONCLUSIONS OF LAW

10 1. The Board is authorized to hear and determine complaints arising under the  
11 Local Government Employee-Management Relations Act.

12 2. The Complaint in this matter arose under NRS 288.270(1)(f).

13 3. The Board has jurisdiction over the parties and the subject matters of the  
14 Complaint on file herein pursuant to the provisions of the Act.

15 4. The wage rate paid by a local government employer to an employee impacts the  
16 employer's finances.

17 5. A local government employer has a general right to manage its operation in an  
18 efficient manner under NRS 288.150(5).

19 6. Overtime allocation is a mandatory subject of bargaining under NRS  
20 288.150(2)(a).

21 7. "Personal reasons" under NRS 288.270(1)(f) does not include the wage rate that  
22 is paid to an employee by a local government employer.

23 8. The County did not violate NRS 288.270(1)(f) -- discrimination based upon  
24 personal reasons -- when it excluded Ms. Logsden and Ms. Rader from overtime opportunities  
25 based upon their wage rates.

26 9. The Association did not present credible evidence that personality conflicts or  
27 personal dislike were a motivating factor in the County's decision to exclude Ms. Logsden and  
28 Ms. Rader from overtime.



1 STATEMENT OF DISSENT

2 I dissent because I would find that there was discrimination against Ms. Logsden and  
3 Ms. Rader by Mr. Minor and Mr. Sloman for personal reasons and because they were females in  
4 higher paid positions with more training and certification. It is easy to see how these kinds of  
5 working conditions could have bred a lot of negativity and dissent into the work place, and I do  
6 not accept the County's contention that it was motivated solely by a desire to save a few dollars.  
7 The numbers speak for themselves and do not suggest that cost savings were the County's true  
8 intention.

9 The Ambulance Services Unit was an Enterprise Fund based on the collection of user  
10 charges to support the services being provided. Ideally, there are no property taxes or sales taxes  
11 or anything else utilized in those funds. But in this case this fund was hemorrhaging money.  
12 The attached chart details the extent of the Ambulance Service Unit's losses:

13

<u>Year</u>	<u>Amount of Loss</u>	<u>Funds Trans. from General Fund</u>
14 2008	Unknown	
15 2009	\$ 360,000	
16 2010	\$ 416,000	
17 2011	\$ 403,000	
18 2012	Unknown	
2013	\$ 86,000	\$ 400,000
2014	Unknown	\$ 170,000

19 It is with the above annual losses noted that allowing Ms. Logsden and Ms. Rader to  
20 merely work the 48 vs 40 hour shifts would have resulted in an annual cost to Elko County of  
21 approximately \$ 16,049 (Logsden hourly rate of \$ 25.72 x 1.5 x 416 hrs.) and \$ 15,126 (Rader  
22 hourly rate of \$ 24.24 x 1.5 x 416 hrs.) **or \$ 31,175 annually for both Logsden and Rader.**

23 This total is well below 10 % of the above noted annual losses, and compared with the losses for  
24 2010 and 2011, which approached a half a million dollars, any savings to the County are  
25 insignificant in my view. A mere drop in the bucket does not raise a credible excuse for  
26 discrimination against Logsden and Rader.

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1 One of the lowest paid staff members of this unit, Daniel Hassett, made \$69,518 or  
2 \$16,000 more than either Logsdan or Rader in 2011, when one considers his base salary and the  
3 eye-popping amount of 1,350 hours in overtime. Mr. Hassett, it should also be noted, scheduled  
4 the overtime for the EMS unit. Testimony showed that his roommate, Mike Hoover, logged an  
5 even more incredible 1,445 hours of overtime. While Ms. Logsdan logged 95 hours of overtime  
6 and Ms. Rader logged 9 hours of overtime for the entire year, Mr. Hassett was working on  
7 average 68.6 hours each week while Mr. Hoover was working an average of 70.5 hours each  
8 and every week. These figures are based on a 50 week year assuming two additional weeks of  
9 vacation. Does one really want to be transported or receiving medications by ambulance drivers  
10 who are routinely working 70 hour workweeks? I think this is an unsafe labor practice, and  
11 more to the point this concern undercuts the County's professed motivation in this case when  
12 weighed against the comparative paltry savings that came about by discriminating against  
13 Logsdan and Rader.

14 The root of the discontent lay in the overtime restriction imposed upon Logsdan and  
15 Rader by Elko County management. It was undisputed that Logsdan and Rader brought this  
16 issue up quite frequently with their co-workers and with their management consisting initially  
17 of Mr. Minor and subsequently with Mr. Sloman. One could conclude that these ladies  
18 ultimately despaired of getting this restriction lifted and ultimately tendered their respective  
19 resignations and moved on. Both Logsdan and Rader testified, credibly in my mind, that they  
20 felt like Director Sloman had painted a target on their back. It is readily apparent that Director  
21 Sloman's job would be much less aggravating without the nuisance of Logsdan and Rader  
22 around to complain about the obviously unfair overtime distribution. The nightmarish work  
23 environment endured by Logsdan and Rader was not necessary for the County to save the mere  
24 fistful of dollars that was supposedly so important in this case and suggests to me that personal  
25 animus played a much greater role in this case than is reflected in the Board's decision.

26 Finally, the Elko County Commission approved a resolution increasing the rates charged  
27 by the Ambulance Service for special events, effective December of 2011. Cash Minor testified  
28 that with this increase in rates, the prohibition against Logsdan and Rader working overtime was

1 lifted. I never saw anything introduced as evidence or in writing describing this policy on  
2 behalf of Elko County regarding this policy directed toward Ms. Logsden and Ms. Rader insofar  
3 as no overtime. This suggested to me that Elko County, or at least Director Sloman did not wish  
4 to place their intentions or their policy into writing. This was particularly evidenced towards the  
5 end of the hearing when the Association asked the County to stipulate to the fact that both  
6 Logsden and Rader claimed they were never informed of Director Sloman's decision in  
7 December 2011 to now allow both Logsden and Rader to work overtime for special events. The  
8 County would not stipulate to this request, whereupon the Association had to put each lady back  
9 on the witness stand, swear them in, in order to have them testify to this issue. Mr. Sloman it  
10 appears would go to great lengths to avoid putting anything in writing regarding his or the  
11 County's intention to eliminate any and all overtime for Ms. Logsden and Ms. Rader. The fact  
12 of the matter is this could have been completely avoided had Mr. Sloman sent out a simple e-  
13 mail or memo to his staff advising that as of this date, and for special event overtime, Ms.  
14 Logsden and Ms. Rader could now work this if needed. This would have shown a clear date of  
15 the e-mail, the distribution list to which it was intended, the subject matter material and a  
16 statement from Mr. Sloman regarding allowing Ms. Logsden and Ms. Rader to begin to work  
17 overtime for Special Events only. It suggests to me that Mr. Sloman and/or Elko County had no  
18 desire to commit anything to writing with respect to this policy. It appears to me that even  
19 though the County's financial concerns were assuaged on this special events issue in light of the  
20 increased rates, the County still did not include Logsden and Rader in the overtime offers for  
21 these events. Both Logsden and Rader, after being resworn, testified as much, and the numbers  
22 again suggest that the truth is on the side of Logsden and Rader. Supposedly the special events  
23 restriction was lifted in December of 2011, yet for the first half of 2012 Logsden and Rader  
24 were on pace to work even fewer hours of extra overtime than they worked in 2011. I would  
25 find that the County withheld special events overtime opportunities from Logsden and Rader.

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1 This was based upon personal animus and dislike in violation of NRS 288.270(1)(f).

2 DATED this 18th day of September, 2015.

3 LOCAL GOVERNMENT EMPLOYEE-  
4 MANAGEMENT RELATIONS BOARD

5 BY:



6 PHILIP E. LARSON, Chairman

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

5 ELKO COUNTY EMPLOYEES  
6 ASSOCIATION, NEVADA CLASSIFIED  
7 SCHOOL EMPLOYEES AND PUBLIC  
WORKERS ASSOCIATION LOCAL 6181,

8 Complainant,

9 vs.

10 ELKO COUNTY,

11 Respondent.

CASE NO. A1-046068

**NOTICE OF ENTRY OF ORDER**

12 To: Elko County Employees Association, Nevada Classified School Employees and Public  
13 Workers Association Local 6181 and their attorney Michael E. Langton, Esq.

14 To: Elko County and their attorney Charlie Cockerill, Esq.

15 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on  
16 September 18, 2015.

17 A copy of said order is attached hereto.

18 DATED this 18th day of September, 2015.

19  
20 LOCAL GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

21  
22 BY 

23 MARISU ROMUALDEZ ABELLAR  
24 Executive Assistant  
25  
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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 18th day of September, 2015, I served a copy of the foregoing  
4 ORDER by mailing a copy thereof, postage prepaid to:

5 Michael E, Langton, Esq.  
6 801 Riverside Drive  
7 Reno, NV 89503

8 Ronald P. Dreher  
9 Advocacy Investigation Services  
10 PO Box 40502  
11 Reno, NV 89504

12 Charlie Cockerill, Esq.  
13 Thoran Towler, Esq.  
14 Allison MacKenzie, Ltd.  
15 402 N. Division St.  
16 Carson City, NV 89703

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MARISU ROMUALDEZ ABELLAR  
Executive Assistant

