

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

NEVADA CLASSIFIED SCHOOL
EMPLOYEES ASSOCIATION, CHAPTER 6,

Petitioner,

-vs-

DOUGLAS COUNTY SCHOOL DISTRICT
AND THE DOUGLAS COUNTY BOARD OF
SCHOOL TRUSTEES,

Respondents.

DOUGLAS COUNTY SUPPORT STAFF
ORGANIZATION,

Intervener.

ITEM NO. 302

CASE NO. A1-045526

DECLARATORY ORDER

For Petitioner: Michael E. Langton, Esq.
LANGTON & KILBURN

For Respondents: C. Robert Cox, Esq.
WALTHER, KEY, MAUPIN, OATS, COX,
KLAICH & LeGOY

For Intervener: Sandra G. Lawrence, Esq.
DYER AND McDONALD

For the EMRB: Salvatore C. Gugino, Chairman
Tamara Barengo, Vice Chairman
Howard Ecker, Board Member

I.

STATEMENT OF THE CASE

On June 11, 1992, the President of Nevada Classified School Employees Association ("NCSEA") wrote the Superintendent of Douglas County School District ("School District"), notifying him that the food service employees of the Douglas County Schools had formed an organization

1 identified as the Douglas County Chapter #6 Unit B, Foo
2 Service, of the Nevada Classified School Employees
3 Association, and requesting recognition as the exclusive
4 bargaining representative for food service employees of the
5 School District. Enclosed therewith were copies of the
6 Association's Constitution and By-Laws, a current list of
7 officers, a signed "No Strike Pledge" and copies of membership
8 authorization cards from approximately 62% of those eligible
9 for membership.

10 At a meeting of the School District's Board of Trustees
11 on July 14, 1992, the Board of Trustees voted to deny the
12 recognition requested on the premise(s) that the most
13 appropriate unit for bargaining would be a "wall-to-wall" unit
14 representing all classified employees, exclusive of bus
15 drivers; also, that it would be a financial burden on the
16 School District to have a proliferation of small bargaining
17 units.

18 Following the School District's denial of its request
19 for recognition, NCSEA filed the instant Petition For
20 Declaratory Relief and Appeal of Unit Determination.

21 In its Answer to the aforementioned Petition, the School
22 District advised that the Nevada State Education Association
23 is also seeking the right to become the exclusive bargaining
24 agent for a bargaining unit composed of food service workers,
25 and contended that there is a genuine dispute in facts as to
26 whether NCSEA or NSEA represents a majority of employees in
27 the proposed bargaining unit; see School District's Fourth
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1 Affirmative Defense.

2 Subsequently, the Douglas County Support Staff
3 Organization ("DCSSO"), an employee organization affiliated
4 with NSEA filed a Petition For Leave to Intervene, alleging
5 that it also had organized the same employees for which NCSEA
6 seeks recognition as the exclusive bargaining agent.

7 In NCSEA's Memorandum of Points and Authorities In
8 Support of Its Petition For Declaratory Relief and Appeal of
9 Unit Determination, it stated that it was willing to stipulate
10 to an election to determine who should be the exclusive
11 bargaining agent for a unit composed of food service workers,
12 which in effect is a waiver of its opportunity to object to
13 NSEA's Petition For Leave to Intervene.

14 The School District, in its Memorandum of Points and
15 Authorities in Opposition to Petition For Declaratory Relief
16 and Appeal of Unit Determination, states, in pertinent part:

17 In order to make a proper determination relating
18 to these issues, it is obvious from the decisions
19 which have been previously rendered by the EMRB as
20 well as the Nevada Supreme Court Opinion, it will
21 be necessary for the EMRB to have the facts before
22 it. Such facts cannot be presented by way of
23 summary pleadings or even affidavit form. It
24 would, therefore, be appropriate for a hearing to
25 be conducted if the EMRB is inclined to overrule
26 the determination by the Trustees of the District
27 that the appropriate unit is a "wall-to-wall" unit
28 composed of all classified employees, except the
bus drivers . . .

24 II.

25 FINDINGS

26 Pursuant to its deliberations in a meeting conducted,
27 pursuant to Nevada's Open Meeting Law, on December 1, 1992,

1 the Board finds as follows:

2 **A. RESPONDENT'S REQUEST FOR HEARING DENIED.**

3 In the School District's Memorandum of Points and
4 Authorities in Opposition to Petition For Declaratory Relief
5 and Appeal of Unit Determination, it contends that the EMRB
6 cannot make a proper determination relating to the issues
7 without a hearing to develop and/or consider the facts. The
8 Board disagrees with this contention.

9 It is clear that the underlying facts and arguments are
10 substantially the same as those involved in Case No.
11 A1-045467, Nevada Classified School Employees Association,
12 Chapter 6 vs. Douglas County School District and Douglas
13 County Board of School Trustees, EMRB Item #254 (October 3,
14 1990). The Board finds, therefore, that the facts of record
15 are sufficient to make a proper determination of the issues,
16 and that, under the circumstances, a hearing would be
17 superfluous and unnecessary.

18 **B. THE FOOD SERVICE WORKERS OF THE**
19 **DOUGLAS COUNTY SCHOOL DISTRICT ARE**
AN APPROPRIATE BARGAINING UNIT.

20 The facts, arguments, previous decisions and case law
21 advanced by the School District in support of its position
22 that the food service workers should be a part of a "wall-to-
23 wall" bargaining unit consisting of all classified employees
24 of the School District, are essentially the same as those
25 which it advanced in Case No. A1-045467, supra. The only
26 relevant factual difference between the instant case and the
27 facts involved in Case No. A1-045467 is that in the instant
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1 case there is no indication that any employee organization is
2 presently attempting to organize a "wall-to-wall" unit
3 consisting of all classified employees of the School District.
4 However, the Board considers that factual difference as
5 providing an additional basis for finding, under the present
6 circumstances, that the food service workers must be
7 considered as possessing the requisite community of interest
8 to constitute an appropriate bargaining unit.

9 In all other respects, the facts and circumstances
10 surrounding the instant case are substantially analogous to
11 those surrounding Case No. A1-045467, supra. Accordingly, for
12 the reasons set forth in Case No. A1-045467, supra, the Board
13 finds that the food service workers of the Douglas County
14 School District constitute an appropriate bargaining unit
15 under NRS 288.170(1).

16 C. AN ELECTION WILL BE HELD PURSUANT
17 TO NRS 288.160(4).

18 In view of NCSEA's stipulation to an election to
19 determine whether NCSEA or DCSSO/NSEA represents a majority of
20 food service workers, an election will be conducted by secret
21 ballot upon the question.

22 For the reasons set forth herein, the Board
23 HEREBY ORDERS AND DECLARES that:

24 1. The food service workers of the Douglas County
25 School District are an appropriate bargaining unit under NRS
26 288.170(1);

27 2. The Board's Commissioner will conduct an election
28 pursuant to NRS 288.160(4), within forty-five (45) days from

1 the date of this Order, to determine whether NCSEA, DCSO/NSE.
2 or either organization represents a majority of food service
3 workers employed by the Douglas County School District. The
4 parties will cooperate with the Board's Commissioner in
5 negotiating an election agreement and scheduling the election
6 to meet the requirements of this Order; and

7 3. Each party shall bear its own attorney's fees and
8 costs in the above-captioned matter.

9 DATED this 15th day of December, 1992.

10 LOCAL GOVERNMENT EMPLOYEE-
11 MANAGEMENT RELATIONS BOARD

12 By Salvatore C. Gugno
13 SALVATORE C. GUGINO, Chairman

14 By Tamara Barengo
15 TAMARA BARENGO, Vice Chairman

16 By Howard Ecker
17 HOWARD ECKER, Member
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