

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-A

CASE NO. A1-045526

ORDER CLARIFYING
DECLARATORY ORDER OF
DECEMBER 1, 1992,
ITEM NO. 302

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

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

For Intervener: Michael W. Dyer, Esq.
DYER AND McDONALD

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

On December 1, 1992, the Board issued a Declaratory Order in the instant case, holding that the food service workers of Douglas County School District are an appropriate bargaining unit and ordering that an election be held pursuant to NRS 288.160(4) "to determine whether NCSEA, DCSSO/NSEA or either organization represents a majority of food service workers employed by the Douglas County School District." The

1 Board did not set forth the terms of the election in said
2 Declaratory Order, but ordered the parties to cooperate with
3 the Board's Commissioner in negotiating an election agreement
4 and scheduling the election to meet the requirements of said
5 Order; i.e., within forty-five (45) days from the date of the
6 Order.

7 The Board's Commissioner was unable to develop a
8 mutually agreeable date for negotiation of the election
9 agreement in a timely manner, in view of which the Board
10 instructed the Commissioner to conduct the election without an
11 election agreement but within the framework of NRS Chapter
12 288. Again, the procedures to be followed in conducting the
13 election were not set forth with specificity.

14 On December 28, 1992, the Board's Commissioner met with
15 the parties for the purpose of determining the names and
16 addresses of the employees who are eligible to vote in the
17 election. During said meeting, the attorney representing the
18 Intervener (Douglas County Support Staff Organization, NSEA)
19 objected to the proposed ballot language and other election
20 procedures which the Board's Commissioner indicated would be
21 utilized in the election.

22 On December 29, 1992, Intervener (Douglas County Support
23 Staff Organization, NSEA) filed a MOTION FOR CLARIFICATION,
24 et. al., regarding the Board's Declaratory Order of December
25 1, 1992, in the instant case, requesting that the Board issue
26 an order "clarifying or reconsidering the proposed ballot
27 language and procedure to provide that the election will be
28

1 conducted either first between representation and
2 non-representation and subsequently between which employee
3 organization should be the representative organization or,
4 alternatively, between the representative organizations and
5 'neither' with a 'run-off' election being conducted between
6 the top two vote receivers in the event that no choice
7 receives a clear majority." The Motion also requests that the
8 Board withhold the mailing of the ballots, which was scheduled
9 for January 4, 1993, until said Motion could be considered by
10 the Board. Upon receipt of said Motion, the Board's
11 Commissioner thereupon scheduled same for hearing by the Board
12 at its next regularly scheduled meeting, January 7, 1993.

13 On December 31, 1992, the Board received a Stipulation
14 from the parties to the effect that the election ballots
15 scheduled to be mailed to the eligible voters on January 4,
16 1993, "shall not be mailed . . . and the election process
17 shall be delayed until after the Board has rendered a decision
18 on Intervener's Motion . . .; and any party is given the right
19 to seek a stay, but in no event shall the election process be
20 delayed beyond January 18, 1993, unless a stay is granted."

21 On January 4, 1993, Respondents (Douglas County School
22 District and the Douglas County Board of School Trustees)
23 filed Petition For Judicial Review and Motion For Stay Of
24 Administrative Decision Pending Judicial Review in the First
25 Judicial District Court of the State of Nevada in and for
26 Carson City. The basis for said Petition and Stay is to the
27 effect that the Board's subject Declaratory Order (Item No.
28

1 302) allegedly is in error because no hearing was held t
2 obtain evidence "thereby denying the District due process of
3 law . . ."

4 On January 5, 1993, Respondents (Douglas County School
5 District and the Douglas County Board of School Trustees,
6 hereinafter referred to as "District") filed an "Opposition to
7 Motion For Clarification and/or Motion For Reconsideration"
8 with the Board, alleging that Intervener's Motion is
9 "untimely"; the hearing set for January 7, 1993 (on
10 Intervener's Motion) was scheduled prior to the time within
11 which the District had to respond to said Motion; the EMRB no
12 longer has the authority to address the subject Order (in that
13 the Order allegedly has become final and binding and the
14 District has appealed the Order to the District Court); an
15 the secret ballot process established by the Commissioner
16 should not be modified.

17 On January 6, 1993, the Petitioner (Nevada Classified
18 School Employees Association, Chapter 6) in the
19 above-captioned case filed its response to Intervener's Motion
20 For Clarification, et. al., which is essentially in support of
21 said Motion, with one minor exception, but also opposes the
22 "requirement that an entity receive a majority of eligible
23 votes . . .". Additionally, Petitioner also objected to the
24 that part of Intervener's Motion requesting a "physical
25 election rather than balloting by mail."

26 During the hearing on January 7, 1993, the attorney for
27 the District advised the Board that a hearing on its Motion.
28

1 For Stay, filed in the First Judicial District Court, will be
2 held at 3:00 p.m. on Thursday, January 14, 1993, in Department
3 I.

4 CONCLUSIONS AND ORDER

5 Pursuant to its deliberations on January 7, 1993, the
6 Board has determined that it has jurisdiction to hear and
7 decide Intervener's Motion For Clarification, et. al., and
8 that clarification of the Board's Declaratory Order of
9 December 1, 1992, in the above-captioned case, heretofore
10 designated as Item No. 302, is necessary and appropriate.
11 Accordingly, in clarifying said Order, the Board

12 **HEREBY ORDERS AND DECLARES THAT:**

13 1. The ballot will be changed to show the choices
14 vertically, in the following order:

15 _____ I WISH TO BE REPRESENTED BY NEVADA CLASSIFIED
16 SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 6 (NCSEA)

17 _____ I WISH TO BE REPRESENTED BY DOUGLAS COUNTY
18 SUPPORT STAFF ORGANIZATION, NSEA

19 _____ I DO NOT WISH TO BE REPRESENTED BY EITHER
20 NCSEA OR NSEA

21 2. The ballots will be sent to all eligible voters via
22 certified mail, return receipt requested;

23 3. A determination as to whether or not a run-off
24 election is necessary will depend on the results of the
25 election;

26 4. The Board will defer going forward with the election
27 until a determination has been made on the Motion For Stay
28 which the District has filed in the First Judicial Court
(entitled DOUGLAS COUNTY SCHOOL DISTRICT, AND THE DOUGLAS

1 COUNTY BOARD OF SCHOOL TRUSTEES, Petitioners, vs. LOCAL
2 GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD, NEVADA
3 CLASSIFIED SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 6, AND
4 DOUGLAS COUNTY SUPPORT STAFF ORGANIZATION, Respondents.),
5 bearing Case No. 93-00013A; and

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

8 DATED this 11th day of January, 1993.

9 LOCAL GOVERNMENT EMPLOYEE-
10 MANAGEMENT RELATIONS BOARD

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

13 By Howard Ecker
14 HOWARD ECKER, Member