

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

4 NEVADA CLASSIFIED SCHOOL
5 EMPLOYEES ASSOCIATION, CHAPTER 8,
6 Petitioner,

7 vs.

8 PERSHING COUNTY SCHOOL DISTRICT
9 and PERSHING COUNTY BOARD OF
SCHOOL TRUSTEES,
Respondents.

ITEM NO. 401

CASE NO. A1-045611

ORDER OF DISMISSAL

10 For Petitioner: Michael E. Langton, Esq.
11 LANGTON & YENKO

12 For Respondents: Proctor J. Hug, Esq.
13 WALTHER, KEY, MAUPIN, OATS, COX, KLAICH & LeGOY

14 STATEMENT OF THE CASE

15 On August 14, 1996, a Petition for Declaratory Order was filed with the EMRB, seeking
16 recognition on Nevada Classified School Employees Association, Chapter 8 (hereinafter NCSEA)
17 from the Pershing County School District (hereinafter PCSD) and Pershing County Board of
18 School Trustees (hereinafter Trustees), as the exclusive bargaining agent for classified employees,
19 specifically bus drivers.

20 On August 30, 1996, a Motion to Dismiss Petition for Declaratory Order was filed by
21 Respondents pursuant to NAC 288.240 seeking dismissal under two arguments; Petitioner has
22 filed an improper Petition for Declaratory Order; and the election results are binding upon
23 NCSEA and PCSD.

24 HISTORY

25 On October 17, 1995, NCSEA requested recognition as exclusive bargaining agent for a
26 unit of bus drivers of PCSD. Between January 12 and February 2, 1996, a mail ballot election
27 was held for said unit, under the supervision of Commissioner Garmon. Of the 10 ballots opened,
28 five voted for NCSEA, three were for no representation and two ballots were challenged due to

1 timeliness and therefore were not counted. Because NCSEA did not receive six votes, the EMRB
2 ruled it did not receive a majority and therefore was not certified as the exclusive bargaining
3 representative.

4 Between February 20 and 28, 1996, NCSEA obtained new authorization cards from
5 PCSD bus drivers and again on February 28, 1996, requested recognition from PCSD and
6 Trustees.

7 DISCUSSION

8 While NRS 288 does not specifically address the issue in the instant petition, in the past
9 when this has occurred, the Board has sought guidance from the National Labor Relations Board.
10 The National Labor Relations Act, Section 9(e)(2) specifically states,

11 "No election shall be conducted pursuant to this subsection in any
12 bargaining unit or any subdivision within which, in the preceding
twelve-month period, a valid election shall have been held."

13 Reasonable construction of the provisions of NRS 288 would support the twelve-month election
14 period for recognition.

15 FINDINGS OF FACT

16 1. That Petitioner, Nevada Classified School Employees Association, Chapter 8, is an
17 employee organization as defined by NRS 288.040.

18 2. That Pershing County School District is a local government employer as defined
19 by NRS 288.060.

20 3. NCSEA filed two applications for recognition for a unit of school bus drivers, the
21 first being filed on October 17, 1995, the second being filed on February 28, 1996.

22 4. An election on the application filed October 17, 1995, was conducted by former
23 Commissioner Garmon as provided for under NAC 288.110.

24 CONCLUSIONS OF LAW

25 1. NCSEA appropriately applied for recognition as the exclusive bargaining agent
26 pursuant to NRS 288.160 on October 17, 1995.

27 2. The election which concluded February 28, 1996, was a valid election under NAC
28 288.110.

1 3. Under NRS 288, only one election can be held within a 12 month period of time.

2 4. The filing of the application for recognition on February 28, 1996, was within this
3 12 month period and accordingly was untimely and therefore invalid.

4 **ORDER**

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT the Motion to
6 Dismiss is granted.

7 DATED this 13th day of December, 1996.

8 Local Government Employee-Management
9 Relations Board

10 By *Christopher W. Voisin*
11 CHRISTOPHER W. VOISIN, Chairman

12 By *Tamara Barenko*
13 TAMARA BARENKO, Vice-Chairman

14 By *David Goldwater*
15 DAVID GOLDWATER, Board Member
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