

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

5 EDUCATION SUPPORT EMPLOYEES  
6 ASSOCIATION, )

Complainant, )

7 vs. )

8 CLARK COUNTY SCHOOL DISTRICT, )  
9 Respondent. )

ITEM NO. 446

CASE NO. AI-045657

ORDER REMANDING  
COMPLAINT

10 For Complainant: Sandra G. Lawrence, Esq.  
Dyer, Lawrence, Cooney & Penrose

11 For Respondent: Jon M. Okazaki, Esq.  
12 Clark County School District

13 On December 16, 1998, a complaint was filed by the Education Support Employees  
14 Association (hereafter "ESEA"), through its counsel Sandra G. Lawrence, Esq., alleging prohibited  
15 practices by the Clark County School District (hereinafter referred to as the "District"). ESEA  
16 subsequently amended the complaint on or about January 7, 1999.

17 On January 19, 1999, the District filed a motion to dismiss the amended complaint, arguing  
18 that ESEA and the employee had not exhausted their contractual remedies by submitting the disputes  
19 to arbitration.

20 ESEA filed an opposition to the motion on February 19, 1999, arguing its right to pursue a  
21 prohibited practice complaint while the employee may be contractually obligated to pursue his/her  
22 grievance process. ESEA further claimed that if the Board "applies the limited deferral doctrine,  
23 ESEA will have no avenue to redress the wrong committed by the District."

24 The District filed reply points and authorities, arguing ESEA had "failed to assert any  
25 evidence, other than its own speculations, that the District acted against Mr. Uliano because of his  
26 union activities" among other arguments and that this matter should be remanded pursuant to the  
27 "limited deferral doctrine" adopted by this Board.

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1 This Board has, in the past, refused to hear certain cases in which the parties have not  
2 exhausted their contractual grievance/arbitration remedies, especially where there are no showings  
3 of extreme prejudice or special circumstances requiring the Board to hear the matter. In the present  
4 case, the parties have failed to exhaust their contractual remedies, and no showings of extreme  
5 prejudice or special circumstances have been made.

6 The Board will not take jurisdiction in a matter which is clearly a contract grievance. Without  
7 ruling on the merits of the issues,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED for the reasons set forth above  
9 that the disputes raised in this matter be remanded for resolution in accordance with the grievance  
10 and/or arbitration procedures prescribed in the parties' agreement. The Board's decision as to  
11 whether or not to hear the complaint shall be deferred until the parties exhaust their remedies.

12 IT IS FURTHER ORDERED that the parties shall report to the Board within thirty (30) days  
13 from the exhaustion of said remedies, notifying the Board whether it should consider hearing any  
14 remaining issue(s) from the complaint or whether the parties will stipulate to a dismissal, or whether  
15 any other action must be taken.

16 DATED this 29 day of April 1999.

17 LOCAL GOVERNMENT EMPLOYEE-  
18 MANAGEMENT RELATIONS BOARD

19 By David Goldwater  
20 DAVID GOLDWATER, Chairman

21 By Karen L. McKay  
22 KAREN L. MCKAY, Vice-Chairperson

23 By James E. Wilkerson, Sr.  
24 JAMES E. WILKERSON, SR., Member