

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

5 NEVADA CLASSIFIED SCHOOL
6 EMPLOYEES ASSOCIATION,

7 Petitioner,

8 vs.

9 GATEWAYS TO SUCCESS CHARTER
10 SCHOOL,

11 Respondent.

ITEM NO. 526A

CASE NO. A1-045738

ORDER

12 For Complainant: Michael E. Langton, Esq.

13 For Respondent: James A. Kalicki, Esq.

14 Petitioner, NEVADA CLASSIFIED SCHOOL EMPLOYEES ASSOCIATION (hereafter
15 "Association") filed a "Petition for Declaratory Relief" with the Local Government Employee-
16 Management Relations Board (hereafter "Board") on May 17, 2002. The Association claims it is
17 the representative of certain employees of the Churchill County School District. Gateways to
18 Success Charter School (hereafter "Charter School") was named Respondent. The Petition
19 requests that the Board "[I]ssue a declaratory order that the classified employees at the Gateways
20 to Success Charter School are covered by the collective bargaining agreement entered into
21 between the Board of Trustees of the Churchill County School District and Nevada Classified
22 School Employees Association."

23 On September 4, 2002, the Charter School filed a "Response to Petition for Declaratory
24 Relief." Thereafter, on October 10, 2002, the Charter School filed its Reply Brief as to this
25 Board's jurisdiction over this matter and, on October 15, 2002, the Association filed its Brief.

26 On January 22 and 23, 2003, the Board deliberated on this matter, which deliberations
27 were noticed in accordance with Nevada's Open Meeting Law.

28 The following is the Board's declaratory ruling regarding the Petition filed herein:

1 NRS 386.595 is clear and unambiguous as it pertains to public employees and local
2 government employers/charter schools. The collective bargaining agreements for the school
3 district in which the charter school is located "apply" to the charter school employees on leave
4 from the school district. The collective bargaining agreement applies to the employees for the
5 first three years that he/she is on a leave of absence. After that 3-year period, if the employee
6 returns to the school district, the employee is continued to be covered by the collective
7 bargaining agreement. If the employee remains with the charter school, that employee is covered
8 by the chartered school's collective bargaining agreement "if applicable," and if one exists.

9 In as much as the charter school admits it is a public employer, it is subject to
10 provisions of NRS Chapter 288, and that includes recognizing an employee organization (NRS
11 288.160) and bargaining in good faith with that organization thereafter (e.g., NRS 288.150).

12 In the present matter, the Petitioner Association simply asserts the school district's
13 collective bargaining agreement should be applied to the employees on leave of absence beyond
14 the three years provided by statute and to employees other than those on leave of absence from
15 the school district.

16 This Board has the authority to interpret the provisions contained within NRS Chapter
17 288. NRS 288.160 allows an employee organization to "apply to a local government employer
18 for recognition." It does not state a collective bargaining agreement covering one employer should
19 also apply to a different employer. The subject charter school is not the same public employer as
20 the school district. If the two were the same employer, NRS 386.595 would not have provided
21 employees with two different collective bargaining agreements, i.e., the collective bargaining
22 agreement "of the school district" and a collective bargaining agreement for "the charter school,
23 if applicable."

24 To harmonize NRS 386.595 with the provisions of NRS Chapter 288, to obtain a
25 collective bargaining agreement for charter school employees, on leave of absence longer than
26 three years from the school district or for employees not on a leave of absence, the Association
27 must seek recognition from the charter school if it wishes to represent that specific bargaining
28 unit of employees, as well as comply with all other provisions of NRS Chapter 288. This, the

1 Association did not do. It merely asserted that the school district's collective bargaining
2 agreement should cover the employees. The school district's collective bargaining agreement
3 does cover the employees up to three years from the school district pursuant to NRS 386.525's
4 language but not those employees of the charter school on leave of absence longer than three
5 years from the school district, or employees not on leave of absence.

6 The Board has jurisdiction over the issue of public employee bargaining units pursuant to
7 NRS 288.110 (1); and the employees on leave of absence longer than three years from the school
8 district are no longer covered by the school district's collective bargaining agreement pursuant to
9 NRS 386.595. The Association must seek recognition for those specific employees of the charter
10 school and proceed according to the provisions of NRS Chapter 288 thereafter.

11 Courts have held that when the Nevada Legislature enacts a statute, it is presumed to
12 know of statutes already in existence and must have intended for the statutes to apply
13 harmoniously with each other. This declaratory ruling accomplishes that legislative intent.

14 Although NRS 288.110 sets forth this Board's authority regarding NRS Chapter 288, it is
15 well known that statutes are not applied retroactively unless such legislative intent is included in
16 the statute or legislative history. In this Board's opinion, NRS 386.595 is silent as to retroactive
17 application.

18 The Board hereby adopts and incorporates the above conclusions as its declaratory ruling
19 herein. Furthermore,

20 It is hereby ordered that each party shall bear its own fees and costs incurred.

21 DATED this 22nd day of January 2003.

22 LOCAL GOVERNMENT EMPLOYEE-
23 MANAGEMENT RELATIONS BOARD

24 BY: 

25 JOHN E. DICKS, ESQ., Chairman

26 BY: 

27 JAMET TROST, ESQ., Vice-Chairman

28 BY: 

TAMARA E. BARENGO, Board Member