

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
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5 RONALD G. TAYLOR,)
6 Complainant,) ITEM NO. 657C
7 vs.) CASE NO. A1-045904
8 CLARK COUNTY EDUCATION)
9 ASSOCIATION (CCEA), CCEA REVIEW)
10 BOARD, AFRICA SANCHEZ, ESQ., VICKI)
11 COURTNEY, and KAREN ACKERMAN,)
12 Respondents.)

13 RONALD G. TAYLOR,)
14 Complainant,) CASE NO. A1-045906
15 vs.)
16 CLARK COUNTY EDUCATION)
17 ASSOCIATION (CCEA) and MARY ELLA)
18 HOLLOWAY,)
19 Respondents.)

20 For Complainant: Ronald G. Taylor
21 For Respondents: Francis C. Flaherty, Esq.
22 Dyer, Lawrence, Penrose, Flaherty & Donaldson

23 FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

24 This matter having come on for hearing before the State of Nevada Local Government
25 Employee-Management Relations Board ("Board") for June 24-25, 2008, noticed pursuant to
26 NRS and NAC chapters 288, NRS chapter 233B, as well as Nevada's Open Meeting Laws, finds
27 concludes, and orders as follows:

28 I. History of Case.

The complaint in A1-045904 was filed by Ronald G. Taylor ("Taylor") with the Board on
February 26, 2007, against the Clark County Education Association ("Association" or "CCEA"),

1 the Association's Review Board, Africa Sanchez, Esq., Vicki Courtney, and Karen Ackerman.
2 The allegations against the Respondents were that they discriminated against Taylor due to his
3 involvement in a rival employee organization. An answer was filed in this matter, along with
4 various motions to dismiss, to strike pleadings, and to consolidate this matter with A1-045906.

5 The complaint in A1-045906 was filed by Taylor with the Board on March 2, 2007,
6 against the Association and Mary Ella Holloway. At issue in this matter was the Respondents'
7 breach of its duty to represent Taylor and his expulsion from the Association. An answer and
8 counterclaim were filed in this matter, along with motions to dismiss and to strike pleadings.

9 On September 20, 2007, Case Nos. A1-045904 and A1-045906 were consolidated for
10 purposes of an administrative hearing. Taylor filed his pre-hearing statement on October 12,
11 2007 and the Respondents filed their pre-hearing statement on November 1, 2007. As indicated
12 above, this consolidated case was scheduled for hearing before the Board. Several witnesses
13 were called, and the following is a brief discussion of their testimony.

14 II. Testimony at Hearing.

15 Robyn Hultengren was the first witness. She was on the Association's Executive Board
16 and heard Taylor's expulsion hearing. She indicated the Executive Board is the governing body
17 for the Association, and it was upset that Taylor had contacted Teamsters. She resigned from the
18 Executive Board because of differing opinions with John Jasek. She indicated that a member
19 on the Review Board can be impeached, although she has not researched how to impeach a
20 member.

21 Bonnie Peck was the next witness. She is a Building Representative and was a
22 complaining party against Taylor, although she did not know that it would result in Taylor's
23 expulsion. She has seen his remarks on the Interact site, but Ackerman asked her and her
24 husband to be complainants against Taylor. Fourteen individuals were contacted to be
25 complainants; and had she the opportunity to do it again, she would not be a complainant against
26 Taylor since it resulted in his expulsion. She does not believe that any dues-paying member
27 should be expelled. Peck indicated that if members are dissatisfied with an Executive Board
28 member, they should seek that Board member's impeachment.

1 Although her husband, Michael, indicated a desire to contact AFT, they were not
2 disciplined or expelled from the Association for discussing another employee organization.
3 They, however, never formed a competing organization or tried to decertify the Association. In
4 response to a question from this Board, Peck indicated that if she was confronted with a
5 dissenter, she would put that person to work for the Association in some capacity.

6 Michael Peck also testified. He does not recall talking with Taylor but he is listed as a
7 charging party. Ackerman asked permission for the use of his name on the charge against
8 Taylor; and he thought that Taylor would only be brought before the Review Board. He does not
9 recall any specific charges against Taylor, but he personally thinks the action against Taylor was
10 proper. He stated he was only "venting" when he talked about AFT, and he only vocalized such
11 a feeling to his wife. Neither he nor his wife appeared at the Review Board hearing.

12 Michael Steinbrink was the next witness. Although he did not appear at the Review
13 Board hearing, he is a charging party against Taylor. Vicki Courtney asked permission to use his
14 name as a complainant. He stated he understood the charge to be forming a competing union and
15 was aware that Taylor could be expelled. He indicated to this Board that he would still be a
16 charging party today against Taylor knowing that the result would be expulsion.

17 Kenneth Zelasko was Taylor's witness at this Board's hearing as well as at the hearing
18 before the Association's Review Board. Zelasko stated that he was a moderator for the Clark
19 County School District's Interact website, Teacher's Lounge. He testified that Taylor is the only
20 teacher to his knowledge without privileges to use the Interact website from home. He also
21 testified that he and Taylor made suggestions to the Association, and the Association retaliated
22 with their article "Setting It Straight" which he believes defames him.

23 Zelasko offered testimony concerning the possibility of altered emails and/or
24 memoranda. He testified that Attorney Sanchez was at the Review Board hearing, but Taylor
25 was not allowed an attorney to represent him at the hearing. A copy of the transcript of the
26 Review Board hearing was presented as an exhibit and Sanchez is noted therein as being present
27 at the Review Board hearing.

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1 Zelasko also testified that Taylor was not allowed the opportunity to present an opening
2 statement or a closing statement, and that the decision was rendered shortly after the meeting
3 without Taylor being afforded the opportunity to submit a post-hearing brief. Zelasko also stated
4 that Taylor was concerned with becoming an at-will employee should he be expelled from the
5 Association. He also stated that Taylor should not have been expelled because a dissenting
6 opinion, or a voice of opposition, assures proper representation by an employee organization.

7 According to Zelasko, Mary Ella Holloway informed him that as long as she was
8 involved with the Association, he would not be "welcomed" within the Association.

9 The Association's first witness was Africa Sanchez. She is the Association's general
10 counsel having been admitted to the Nevada bar in October, 2000; and she provides daily legal
11 advice to the Association. Such advice included advice to the Review Board that Taylor could
12 not have an attorney present at the Review Board hearing. She testified regarding hearing
13 Exhibit B which is the Review Board's policies and procedures, and admits that Section I
14 pertains to impeachment and Section II pertains to censure, suspension, or expulsion of a
15 member. This document is silent as to whether attorneys can be present at the Review Board
16 hearing. She also assisted in the drafting of the charges against Taylor and believes Taylor had
17 an opportunity to make an opening statement when it became time to present his case to the
18 Review Board. She claims that Taylor also did not ask to file any post-hearing documents. She
19 also stated that she attended the Review Board hearing to assure that all parties' rights were
20 protected.

21 She stated that because of Taylor's activities in forming a new rival organization, all
22 correspondence or documents pertaining to Taylor came straight to her. She claims that Taylor
23 campaigned for teachers to stop paying dues to the Association, and if that occurred, the
24 Association could no longer exist. Sanchez stated that Taylor even picketed during the drop
25 period for employees to drop their Association membership. Taylor also allegedly solicited
26 teachers to contact him regarding the new organization and the possibility of better health
27 insurance than that offered by the Association.

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1 Sanchez testified that all of Taylor's activities indicated that he was a rival union
2 organizer. She considered him a serious threat to the Association. She did state, however, that
3 Association members will typically talk to disgruntled members, but she is not aware of anyone
4 ever talking to Taylor. She also admits that rank and file members of the Association did not
5 complain about Taylor to her knowledge.

6 As for damages suffered by Taylor due to his expulsion from Association membership,
7 Taylor no longer can buy cheaper movie tickets; allegedly he has no right to Association
8 representation in a grievance; Taylor cannot attend Association meetings or vote in elections for
9 Association officers-directors; additional life insurance is no longer being provided to Taylor
10 through the Association; and malpractice insurance is no longer being provided to Taylor
11 through the Association.

12 The next witness was Karen Ackerman. She has been a Building Representative for the
13 Association as well as on the Executive Board and has been Treasurer. She claims members and
14 non-members approached her regarding Taylor's messages on the Interact website. She
15 personally did not like Taylor's use of the website for his own purpose of forming a rival
16 employee organization. His postings led her to believe that Taylor was seeking decertification of
17 the Association and that led to her seeking the complaint and hearing before the Review Board.
18 She stated that Taylor created "great tension" in her life. She stated she is not aware of any
19 Association member approaching Taylor regarding his concerns.

20 Ms. Ackerman discussed the Association's goals and principles and how Taylor could
21 have allegedly violated the same. She admits that principles are not set out in the bylaws,
22 policies, and procedures offered as hearing exhibits. Goals are found in the preamble. She
23 stated she contacted several members to be the complainants against Taylor, and Vicki Courtney
24 contacted the other complainant members. She stated that she did not think that the Review
25 Board would expel Taylor.

26 Testimony was also offered as to the timing of the complaint against Taylor versus the
27 date Taylor actually filed his complaint with this Board. The complaint bringing Taylor before
28 the Review Board was dated November 2006; however, the complaint was not filed with this

1 Board until January 2007. She stated that she did not think it was a personal attack against
2 Taylor by her soliciting complaining members against him. She claims the only reason the
3 charges were filed against Taylor was because he was organizing a competing employee
4 organization. Ackerman further claims that by seeking decertification of the Association, you
5 are not helping its members, and that filing a complaint with this Board is an extreme measure.

6 Testimony was also presented that Chet Miller was not disciplined or expelled from the
7 Association for any dissenting remarks he made against the Association. During questioning of
8 Ackerman by this Board, counsel for the Association stipulated that Taylor was expelled from
9 the Association based upon his efforts to form a rival union and his attempt to decertify CCEA,
10 which efforts culminated with him filing a petition with this Board seeking decertification.
11 Taylor moved for summary judgment that, pursuant to NRS 288.270(2)(a), it is a prohibited
12 labor practice to "interfere with, restrain or coerce any employee in the exercise of any right
13 guaranteed" in NRS chapter 288; and pursuant to NRS 288.140(1), "[i]t is the right of every local
14 governmental employee, . . . to join any employee organization of his choice or to refrain from
15 joining any employee organization." The Board granted the summary judgment in favor of
16 Taylor and against the Respondents; and based thereon, dismissed the Respondents'
17 counterclaim.

18 ***FINDINGS OF FACT***

19 1. That only two of the fourteen charging parties were present at the Review Board
20 hearing, namely, Ackerman and Vicki Courtney; and those two (Ackerman and Courtney) were
21 the individuals who solicited the complainants for the "Initiation of Proceedings" against Taylor

22 2. Testimony was presented that no rank-and-file members of the Association
23 complained of Taylor's conduct. Testimony was presented, however, that Sanchez believed
24 Taylor was a serious threat to the Association and that Taylor caused great tension in the life of
25 Ackerman.

26 3. Ackerman testified that the Review Board only deliberated for approximately ½ hour,
27 and that the deliberations were immediately after the hearing, without Taylor being provided an
28 opportunity to file any post-hearing briefs or documents. Pursuant to the Review Board's

1 policies and procedures, Taylor had the right to submit post-hearing briefs and/or documents.
2 Sanchez indicated she attended the Review Board hearing to protect the rights of the parties;
3 however, she failed to advise or remind Taylor of his rights to file any post-hearing documents
4 and/or appeal. In fact, she was instrumental in denying Taylor legal representation before the
5 Review Board. This is especially alarming considering the serious ramifications suffered by
6 Taylor. In light of the short time in which the deliberations were conducted and the immediate
7 commencement of the deliberations, a predetermined outcome was evident, especially in light of
8 the apparent animosity towards Taylor, after a summary hearing.

9 4. Arguments were made by Taylor that he was fearful of becoming an at-will employee
10 with no protection at all, even through such is a misunderstanding of the law.

11 5. Taylor lost certain rights-benefits by expulsion from the Association, namely, Taylor
12 no longer can buy cheaper movie tickets; allegedly he has no right to Association representation
13 in a grievance and representation by others would be at an increased hourly rate; Taylor cannot
14 attend Association meetings or vote in elections for Association officers-directors; additional life
15 insurance is no longer being provided to Taylor through the Association and Taylor testified he
16 travels to a prison as his teaching assignment (i.e., a greater risk of exposure than traditional
17 teachers); and malpractice insurance is no longer being provided to Taylor through the
18 Association.

19 6. Based upon the demeanor of the witnesses, there is an appearance of personal
20 animosity towards Taylor, e.g., Ackerman testified Taylor gives her "great stress" or "tension" in
21 her life and all matters involving Taylor are immediately forwarded to the Association's general
22 counsel.

23 7. No one from the Association ever contacted Taylor about his concerns or attempted to
24 have him be more involved with the Association.

25 8. This Board finds that expulsion from the Association upon the filing of a complaint
26 with this Board will have a chilling effect on members to complain about the Association and/or
27 may cause the members not to file prohibited labor practice complaints with this Board.
28

1 9. Substantial evidence exists in the record that Taylor wished to remain in the
2 Association, such as appearing at the Review Board hearing concerning his expulsion.

3 10. Furthermore, animosity is evident in the comments made that if certain members
4 dropped their membership in the Association, they would never be allowed back into the
5 Association, or "welcomed" into the Association.

6 11. Taylor's acts of allegedly posting improper messages on the Interact website may be
7 a violation of a Clark County School District policy, but no evidence was submitted that such a
8 mere act of posting was so egregious that he should be expelled from the Association along with
9 the accompanying loss of benefits and rights. Testimony was provided that if there is a dissenter
10 of the Association, that such a dissenter should be brought into a more active role or provided
11 duties within the Association. Simply making comments against the Association, or creating a
12 website, or even attempting to achieve the impeachment of an officer is not so egregious to
13 warrant Taylor's expulsion from the Association with the associated loss of benefits and rights.
14 Based upon a credibility determination of the witnesses' testimony, Taylor was simply unable to
15 get the Association to respond to his concerns, and he merely took the next step he deemed
16 necessary.

17 12. There were members who may have voiced a concern against the Association,
18 namely, Chet Miller and Michael Peck, but they were not disciplined nor expelled from the
19 Association, yet discriminatorily they did so with Taylor.

20 13. The applicable documents, bylaws and policies/procedures do not prevent attorneys
21 appearing before the Review Board on behalf of a party, yet Taylor was precluded from having
22 an attorney at the Review Board hearing.

23 14. The allegations concerning Taylor violating the Association's principles are
24 groundless, as principles are not defined in the Bylaws. Although goals may be referenced in
25 the Preamble to the Bylaws, insufficient evidence was presented at the hearing before this Board
26 of Taylor's alleged violations of the same to warrant his expulsion.

27 15. Should any finding of fact be more properly construed as a conclusion of law, may it
28 be so deemed.

1 **CONCLUSIONS OF LAW**

2 1. The Local Government Employee-Management Relations Board ("Board") has
3 jurisdiction over the parties and the subject matters of the complaint on file herein pursuant to the
4 provisions of NRS Chapter 288.

5 2. The Association is an employee organization serving as the exclusive bargaining agent
6 for the teachers in the Clark County School District as defined in NRS 288.027 and NRS
7 288.040.

8 3. Taylor is a local governmental employee as defined in NRS 288.050.

9 4. Pursuant to NRS 288.270(2), the Board concludes that it is a prohibited labor practice
10 to "interfere with, restrain or coerce any employee in the exercise of any right guaranteed" in
11 NRS chapter 288 and/or discriminate against an employee for personal reasons.

12 5. Pursuant to NRS 288.140(1), this Board concludes that "[i]t is the right of every local
13 governmental employee . . . to join any employee organization of his choice or to refrain from
14 joining any employee organization."

15 6. This Board concludes that the Respondents and each of them discriminated against
16 Taylor in that certain members were disciplined for dissenting with the Association and others
17 were not. Taylor was the member who was disciplined by formal expulsion from the
18 Association, although the acts and/or conducts of voicing a dissenting opinion of the Association
19 were not so egregious warranting the severe sanction of expulsion.

20 7. This Board concludes that the Respondents and each of them committed a prohibited
21 labor practice by interfering and restraining Taylor "in the exercise" of his right to join the
22 employee organization representing the bargaining unit of which he is a member, i.e., the
23 Association; and that Taylor has undisputedly lost certain rights, privileges, and/or benefits as
24 identified herein.

25 8. Should any conclusion be more properly construed as a finding of fact, may it be so
26 deemed.

27 **DECISION AND ORDER**

28 Based upon the above, the Board decides and orders as follows:

1 Pursuant to NRS 288.110(2), the Board may order that a party refrain from the action
2 complained of and restore to the aggrieved petitioner any benefit of which he has been deprived
3 of by the prohibited labor practice. BASED THEREON, IT IS ORDERED that the Association
4 shall immediately reinstate Taylor into membership with the Association, with all benefits, and
5 compensate Taylor for any benefit deprived by the prohibited expulsion from the Association.

6 FURTHERMORE, the Association is hereby ORDERED to cease and desist from any
7 further prohibited practices against Taylor in the exercise of his guaranteed rights under NRS
8 chapter 288.

9 Taylor is hereby awarded costs incurred in bringing these consolidated cases, and an
10 itemization for the same shall be filed within twenty (20) days of the service of this order.
11 Respondents shall have ten days thereafter to file an opposition to the itemization of costs
12 incurred.

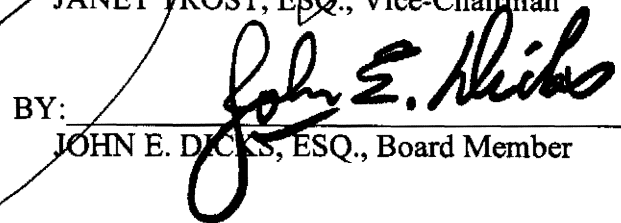
13 Lastly, relying on guidance by the National Labor Relations Act, a posting shall be made
14 concerning the Association's prohibited labor practices as alleged herein. The Board staff shall
15 draft a notice and present it to this Board for approval and decision regarding the length of time
16 and other details pertaining to the posting.

17 DATED this 16th day of July, 2008.

18 LOCAL GOVERNMENT EMPLOYEE-
19 MANAGEMENT RELATIONS BOARD

20 BY: 
21 JAMES E. WILKERSON, SR., Chairman

22 BY: 
23 JANET TROST, ESQ., Vice-Chairman

24 BY: 
25 JOHN E. DICKS, ESQ., Board Member
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5 RONALD G. TAYLOR,
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8 CLARK COUNTY EDUCATION
9 ASSOCIATION (CCEA), CCEA REVIEW
10 BOARD, AFRICA SANCHEZ, ESQ., VICKI
11 COURTNEY, and KAREN ACKERMAN,
12 Respondent.

CASE NO. A1-045904

12 RONALD G. TAYLOR,
13 Complainant,

14 vs.

15 CLARK COUNTY EDUCATION
16 ASSOCIATION (CCEA) and MARY ELLA
17 HOLLOWAY,
18 Respondents.

CASE NO. A1-045906

NOTICE OF ENTRY OF ORDER

19 To: Ronald G. Taylor

20 To: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

21 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
22 July 16, 2008.

23 A copy of said order is attached hereto.

24 DATED this 17th day of July, 2008.

25 LOCAL GOVERNMENT EMPLOYEE-
26 MANAGEMENT RELATIONS BOARD

27 BY 
28 JOYCE HOLTZ, Board Secretary

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 16th day of July, 2008, I served a copy of the foregoing
4 ORDER by mailing a copy thereof, postage prepaid to:

5 Ronald G. Taylor
6 7045 Mustang Street
7 Las Vegas, Nevada 89131

8 Francis C. Flaherty
9 DYER, LAWRENCE, PENROSE, FLAHERTY
& DONALDSON
2805 Mountain Street
Carson City, NV 89703

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17 JOYCE HOLTZ, Board Secretary
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